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MINISTRY OF TRANSPORT.

RATES ADVISORY COMMITTEE.

GENERAL REVISION

OF

RAILWAY RATES AND CHARGES.

PROCEEDINGS OF MEETING

HELD ON

18TH MAY, 1920.



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MINISTRY OF TRANSPORT.

GENERAL REVISION OF RAILWAY RATES, TOLLS AND CHARGES.

OLD HALL, LINCOLN'S INN, W.C.2.

Tuesday, 11th May, 1920.

Terms of Reference:—

"The Minister having determined that a complete revision of the rates, fares, dues, tolls and other charges on the railways of the United Kingdom is necessary, the Committee are desired to advise and report at the earliest practicable date as to:—

- "(1) The principles which should govern the fixing of tolls, rates and charges for the carriage of merchandise by freight and passenger train and for other services.
 - "(2) The classification of merchandise traffic, and the particular rates, charges and tolls to be charged thereon and for the services rendered by the Railways.
 - "(3) The rates and charges to be charged for parcels, perishable merchandise and other traffic conveyed by passenger train, or similar service, including special services in connection with such traffic."
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MINISTRY OF TRANSPORT.

RATES ADVISORY COMMITTEE.

GENERAL REVISION OF RATES AND RAILWAY CHARGES.

PROCEEDINGS OF MEETING

HELD ON

18TH MAY, 1920.

PRESENT:—

F. GORE-BROWNE, Esq., K.C. (*Chairman*).
SIR WALTER W. BERRY, K.B.E.
W. J. DAVIS, Esq.
W. A. JEPSON, Esq.
L. A. MARTIN, Esq.
W. M. ACWORTH, Esq.
S. J. PAGE, Esq. (*Secretary*).

FOURTH DAY.

MR. J. H. BALFOUR BROWNE, K.C., appeared for The Federation of British Industries
SIR JOHN SIMON, K.C., SIR LYNDEN MACASSEY, K.C., MR. BARRINGTON WARD, K.C., and MR. BRUCE THOMAS appeared for the Railway Companies' Association.

MR. ROWLAND WHITEHEAD, K.C., appeared for the St. Helens and Widnes Manufacturers and Traders.

MR. ROWLAND WHITEHEAD, K.C., and MR. EDWIN CLEMENTS appeared for the Iron and Steel Federation.

MR. G. H. HEAD appeared for the Livestock Traders' Association (instructed by Messrs. Maxwell, Brownjohn & Co.).

MR. JACQUES ABADY (instructed by Sir Thomas Ratcliffe-Ellis) appeared for the Mining Association of Great Britain.

SIR ROBERT ASKE (instructed by Messrs. Botterell & Roche and Hill Dickinson & Co.) appeared for the Chamber of Shipping of the United Kingdom and Liverpool Steamship Owners' Association.

Chairman: Mr. Balfour Browne, before we begin I want to ask you with regard to a matter which Mr. Marshall Stevens put forward. He suggested something which is new in this country—that is to say, that we should have an arrangement similar to the *spéditeur* in France and Germany, or to the Express Companies in America, by which anyone, not a railway company, could receive and claim to have forwarded goods over a company's lines and paying only the conveyance rate. I want to know whether that is a policy which is put forward by the Federation of British Industries as whole or whether it is only Mr. Marshall Stevens' wish. It is a new matter. It is a matter upon which we can, of course, partly form an opinion with regard to what is already done in foreign countries; but if it is the policy of the Federation of British Industries we should like to have it a great deal more elaborated before we express an opinion on it. My question to you is whether or not that is the policy of the Federation of British Industries.

Mr. Balfour Browne: It was volunteered by Mr. Marshall Stevens; it had not occurred to us, and we had not considered it. I confess that up to the present time the Federation of British Industries has not considered the point; so that if you will allow me I would prefer to answer that question later. It was not part of my original case; I daresay you remember that.

Chairman: I do.

Mr. Balfour Browne: Therefore I would rather leave it there in the meantime, and I will try to answer your question later. One word more about Mr. Marshall Stevens. He was asked some questions by Mr. Acworth as to the rates on French railways, especially with regard to cost.

Mr. Jepson: The point was this, as to whether any of the French railway companies really published statistics as to costs. They published the receipts per ton mile, but we understood Mr. Marshall Stevens to say that statistics were available showing the cost of working particular traffic. Mr. Acworth questioned that.

Mr. Balfour Browne: He sent me extracts from what I suppose would be called a French Blue Book, which shows a great number of statistics both for the *Grande Vitesse* and for *Petite Vitesse*; but so far as I can see they require further explanation from Mr. Marshall Stevens before they are intelligible; therefore, I will merely hand it in and leave the matter until Mr. Marshall Stevens comes and explains it. I think that was the question. You remember that he gave an illustration and said that, even with the increase of 140 per cent. on the French railways, their rates and the cost were less than in this country. I do not think, with great respect to Mr. Marshall Stevens, that this is really an answer to that question; but I

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MR. J. H. BALFOUR BROWNE, K.C.

[Continued.]

will hand it in and, if you will allow me, leave him to explain it.

Mr. Accoroth: I said two things to Mr. Marshall Stevens. I thought I persuaded him that his statement that our rates were higher than the French, even with the increase—taking the rates as a whole—was not true.

Mr. Balfour Browne: Yes.

Mr. Accoroth: We leave that as it stood. But I also said, would he furnish me if he could with official statements showing the cost of doing any classes of work. The two points are separate.

Mr. Balfour Browne: I myself do not rely at all upon the French railways. I hope to be able to show the Committee, when my friend puts in a witness, that it is perfectly possible for the English railways to get at the cost. It is only that Mr. Marshall Stevens wanted this as part of his evidence; and, therefore, I must leave it for explanation until he comes. Now there is another matter. I should like to mention before we go further. If you will refer to Mr. Currington's evidence on May 13th, page 8 of the Notes, you will find that he promised to give you something. Mr. Jepson asked him, at the bottom of the second column of page 8: "No, there has been no alteration in the charge, because at the present time it does not matter whether one company earns the revenue or the other under the system of pooling. Each company gets its net pre-war revenue from the Government, and it did not matter about diversion. (Chairman): Has it cost the trader any more? (Mr. Jepson): No, absolutely not." And upon the following page you were good enough to ask, at question 635: "Is it the case that after you have delivered the goods for carriage to named stations you have to pay more for conveyance than you would have had to pay if it had not been allocated?"

Mr. Jepson: It is "for cartage."

Chairman: I think it must be "carriage."

Mr. Balfour Browne: The witness answered, "I think I am right in saying Yes, but as I have not

instances before me we will, if it is convenient, put them in later. (Q.) Perhaps when we meet on Tuesday you can give us some instances? (A.) I will try to." I am going to ask Mr. Currington to give me the instances he promised and, in order that my friends may follow it, I will give them copies.

Chairman: Sir John Simon, at this stage can you indicate, on behalf of the railways, that which perhaps in the ordinary case would have been indicated by cross-examination—that is to say, which points you contest and on which points we may hope to find the railway companies in substantial agreement with the traders?

Sir John Simon: Yes. We have been preparing ourselves in the hope of doing that, and we understood that you would ask us to endeavour to do so this morning; so I have come here prepared, as far as I can, to deal with a number of points and to indicate what are likely to be the points of discussion, and where we hope already to see the means of agreement.

Chairman: I think, Mr. Balfour Browne, that will be very convenient.

Mr. Balfour Browne: That will forego the necessity of cross-examination if you tell us you agree on certain points.

Sir John Simon: I understood, sir, that it was desired rather, instead of having elaborate cross-examination, that we should keep the Committee, and, of course, keep my friends, posted with our views even though they might in some cases be provisional views and not fully developed, and the Railway Companies' Association have been working along with us in the interval with the object of putting together, in a summary form, some information on a number of heads. I do not know whether it would be convenient for me to do it now or to wait until Mr. Balfour Browne has finished with his witness.

Mr. Balfour Browne: I have only a few questions to ask Mr. Currington.

Sir John Simon: Then I will do it afterwards.

Mr. HARRY CURRINGTON, re-called.

Further examined by Mr. BALFOUR BROWNE.

1185. *Mr. Balfour Browne:* You remember the questions that were asked you the other day, and the suggestion made by Mr. Jepson?—Yes.

1186. Have you prepared tables to answer that question?—I have.

1187. The Chairman said when you were last called, "Has it cost the trader any more?" and Mr. Jepson replied, "No, absolutely not."

Mr. Jepson: For cartage, that was.

Mr. Balfour Browne: This table shows, and I take it that it is only a selection of instances, some instances in which where it is allocated it is charged more than where it is not allocated.

Witness: Yes, they are instances. They do not pretend to be exhaustive by any means; they are instances taken as readily as we could having regard to the time we have had. I think the first instances, in Statement A, show quite clearly what the effect of allocation has been in some cases.

1188. Take the first one, from Sheepbridge. That is traffic, of course, that you probably have to deal with?—Yes.

1189. From Sheepbridge to Derby, which is on the Great Northern, that has now been allocated to the Midland, and the charge for that is 5s. 1d. per ton?—Yes.

1190. If it went by the Great Central, before it was allocated the charge per ton was 2s. 6d., and the article in question was pig iron?—Yes.

1191. With regard to Stavelly—that is not your own traffic, but it is a very large concern?—Yes.

1192. From Bradford Great Northern to Midland, the charge when allocated is 12s. 2d. per ton; now that it is allocated to the Great Central it is 8s. 8d.; and that is for iron pipes?—Yes. When it was not

allocated it was 9s. 8d.; now it is allocated to the Midland it is 12s. 2d.

1193. The other instances are similar. The next was sent by Stavelly to South Lambeth Great Northern, the allocated charge being 12s. 11d., and if they went by the Great Central non-allocated, 10s. 5d.?—That is so.

1194. Stavelly to Newark Great Northern 5s. 7d.; non-allocated 4s. 9d. Pig iron again?—Yes.

1195. I will not go through the other instances because they are clear from the statement; though I notice that below you have from Maltby to Leeds Midland—Great Northern allocated to—additional haulage charge of 1s. 8d. per ton made by Midland Company at Leeds?—Yes.

1196. You mean to show that if it had gone by the Midland it would not have been charged that 1s. 8d.—That is so. Although the rates charged would be the same when the traffic has travelled by the Great Northern route, the Midland Company have made an additional haulage charge of 1s. 8d.

1197. It is the same with regard to the Midland and North Eastern joint stations—to Leeds Midland—when allocated to Great Eastern an additional haulage charge of 10d. per ton was made by the Midland Company at Leeds—that is, compared with the Midland?—Yes; it is the same position at Leeds.

1198. The further instances given in Statement A are again comparisons when the traffic is allocated. There is an additional charge made for what is called "special working," in certain cases?—Yes.

1199. For what is that?—The Committee will, of course, appreciate that the gauge of the various railways is rather different and in some cases it means that in the allocated route the gauge is perhaps less, and certain traffic has to be worked specially over the allocated route involving an extra charge of, say, 5s.

* See Appendix.

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MR. HARRY CURINGTON.

[Continued.]

per mile, or whatever it is; whereas in the case of the non-allocated route it was possible to work the traffic, the gauge being better, without any special working; thus the trader was saved the expense of the special working charge.

1200. Take fuel economiser from Wakefield to Birkenhead (London & North Western) and Lancashire and Yorkshire; the charge for special working would be £2 10s.?—Yes; that is an actual instance of a consignment.

1201. On the other hand, if it were not allocated by Great Northern or by London & North Western it would go without that special charge at all, at the ordinary rate?—Yes.

1202. Is the same true with regard to Wakefield to Kirkhill, which apparently goes to Scotland because I see the Caledonian Company carry it?—Yes, Kirkhill is a Scottish station.

1203. The extra charge for working is £35, but if it went by the Great Northern and Glasgow and South-Western, the fuel economiser would not be charged extra, but ordinary rates?—The rates charged are the same, but there is an additional charge for out-of-gauge working.

1204. Mr. Jepson: On this second sheet, all these articles are articles out-of-gauge—they have to be worked on Sunday, or over a single line, at times when only one line is occupied, and so on?—Yes.

1205. Are we to understand that by the allocated route these charges are made and that no such charge would be made by the old route?—That is precisely the point I am making. That under the old route, which might have been of slightly different gauge, it was possible to work the traffic with ordinary traffic without special working, but it is not possible to do that over the allocated route, which naturally results in special working charges being made.

1206. Mr. Balfour Browne: These are actual charges?—Yes. Before passing from Statement A, may I say that the Committee will see that, broadly, they fall under three heads as to how allocation affects the charges—the cases where there is an actual increase in the rate; the cases where haulage charges are made at sidings because it does not come from the company's own line, whereas it would have done otherwise; and circumstances caused by special gauges.

Mr. Jepson: We shall have to ask the railway companies to give an explanation of these things. I am sure it was not the intention of the railway companies to put an additional burden on the trader in the way of carriage and charges.

Mr. Balfour Browne: It would be, of course, unintentional. There is some oversight. But as you drew attention to the fact we had to give particulars. There is one other matter which has not been touched by what Mr. Jepson said. (To the Witness.) You said by allocation you might be taken to a station where the cartage put upon you was much longer than if it had not been allocated?—Yes.

1207. Have you prepared the Statement B which shows that?—Yes. We have shown some instances, but they do not pretend to be exhausted by any means.

1208. Traffic generally from many provincial towns to London, allocated to terminal station of the carrying company, formerly any main line London terminus?—Yes, formerly.

1209. In that case is there long road haulage in many cases?—Yes. I think I explained that before.

1210. Take Staveley pig iron. Staveley to Nottingham is allocated to the Great Central; formerly it went by Midland to Lenton Station, and the extra cartage is two miles?—That is so.

1211. Take timber. Nottingham, Great Central, to Sheepsbridge, now allocated to the Great Central; formerly it went by the Midland. The extra cartage is 4s. per ton?—Yes.

1212. You give another illustration, but I think the one mentioned is as good as many in, order to show the point. I now want to ask you one or two questions on your last statement. You say "Perishable traffic,

Birkenhead to Derby, is allocated to the London and North-Western route"?—That is so.

1213. Its transit, I believe, by London and North-Western, is poor?—It is.

1214. So poor that the traffic has to be carted and ferried across to Liverpool and despatched from there by the Midland route at considerable additional cost?—Yes; and, of course, at very great inconvenience. There are no services by the London and North-Western, and the people are naturally driven to send perishable traffic by some reasonable service—which happens to be the Midland in this case.

1215. Take castings, Derby to Birmingham, allocated to London and North-Western. The transit by that route is so poor that the firms concerned are sending by road upwards of ten tons per week, and, of course, that means considerable expense?—Yes. They do not desire to send it by road, but the service is so bad that they are obliged to do so.

1216. If it were not allocated would not that traffic go by rail?—Yes, certainly; by the Midland, of course.

1217. Take castings, Derby to Barrow-in-Furness, on May 15, Saturday last?—Yes.

1218. The firm concerned tendered in turn to each of the railway companies at Derby a consignment for Barrow-in-Furness. Each company declined to accept, saying that Barrow-in-Furness was not on their list. So that the traffic has not gone at all?—That is so. My friends who are interested wrote to me and suggested that I might ask what has become of the traffic.

1219. That seems to me allocated to the Air Service! I will now take scrap, Radford (Midland) to Sheepsbridge. Allocated to Great Central Company to be carried from Nottingham. G.C. merchants decline to cart to Nottingham, and in consequence the scrap will not pass to Sheepsbridge. Is that statement true?—Yes, it is quite true; and it is only typical of what is happening in many cases. A scrap merchant, or any other merchant, finds that he has got to cart to some station two miles away from his works, but he says, "I can sell this to someone else where I can put it on rail at the station nearest to my own door." You do not get the traffic, and you have to go somewhere for it. One naturally seeks the markets nearest home, and if we have to go further afield it costs more money. May I say that although we have put in these instances we do not suggest for a moment that in every case the charges have been paid? Negotiations are going on with the railway companies in respect to some of them, but I think we have done sufficient to show that Mr. Jepson was misinformed when he said that the charge was not made. We are willing to accept his assurance that it was not the intention, and I think that will probably dispose of the difficulty. What we have in mind is more with regard to the future than the past.

Chairman: I remember you quoted this as a reason why there should be a clause put in that everything should be carried by the shortest route—that the charges should be by the shortest route?—Yes.

1220. It was an instance of that, and, if I may say so, it was a strong instance?—Yes. We also desire to draw attention to the fact that this not only means in many cases the charge is higher, but that the facilities are less; and in future we desire to have the former facilities restored if possible.

Chairman: This will be looked into, Sir John, and explanations given to us?

Sir John Simon: If you please. On the face of it it would look, so far as the instances are not capable of explanation, that it must be due to the temporary difficulties of the War. It does not seem to have much to do with post-War matters at all.

Mr. Balfour Browne: You asked us, Sir, also to have clauses ready for company's risk and for owner's risk.

Chairman: I was going to ask for them after we have heard what Sir John Simon says upon the railways.

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MR. HARRY CURRINGTON.

[Continued.]

Mr. Balfour Browne: I have had the clause prepared, but I have not yet seen the suggestions of the railway companies, and until I do I do not, of course, propose to hand it to them. I spoke to my friend the other night, and I dare say he has prepared a clause. If he has I will exchange clauses with him and submit them to you.

Mr. Rowland Whitehead: May I ask that these clauses go on the Notes, so that it is not only a question between these two gentlemen?

Chairman: Certainly. I asked that they should be submitted to us.

Mr. Balfour Browne: Whatever goes before the Court should be put on the Notes.

Sir John Simon: There are a number of points on which, on behalf of the Railway Companies' Association, I can give the Committee a little information as to the view which those instructing me would be disposed to take. In some instances it is necessarily somewhat provisional, but instead of cross-examining and occupying time in forensic controversy, this method of intervening and stating as plainly as I can what our view of a number of matters is, will, perhaps, lead to clearness and brevity. May I take as the first point about which to make a short statement, the question whether or not there should continue to be statutory maximum rates? The view which the Railway Companies' Association would take is the view which they have already indicated in their letter and memorandum to the Chairman of the Committee. Our view is that, more especially in the present circumstances, it is not desirable that there should be, apart from the rates which are in fact charged, some statutory maximum; either that the maximum would have to be so little above the reasonable rate in fact charged as to provide no real latitude for necessary variation, or else it would have to be so much above the reasonable rate in fact charged as to allow for changing circumstances, many of which cannot be clearly predicted, that it would not serve any useful purpose as a check. Our own view is now, after hearing what has been said, as we stated it in our letter in one paragraph on page 11 of Cd. 682—our own view is that there is an extreme difficulty in the abnormal conditions as to costs of the kind that obtain at the present day of fixing maxima that would be suitable to the future; and our suggestion to the Committee will be while, of course, it is most necessary to secure that the rates charged are reasonable and fair rates, having regard to the necessity of making the undertakings reasonably remunerative and self-supporting undertakings and undertakings which can progress and develop, and on the other hand, treating the trade of the country properly and fairly—while that is so, in our view it would be a mistake for the Committee to recommend side by side with the fixing of any actual reasonable rate that there should be a theoretic statutory maximum. Therefore our view is that we favour the abolition of statutory maxima, and in lieu of the protection which such maxima are intended to give to the public, the railway companies would favour giving to a tribunal the power to disallow any rate which is complained of as unreasonable and shown to be so.

Chairman: Does that mean that the railway companies should fix the rate in the first instance with an appeal to the tribunal; or would you have the tribunal fix the rate in the first instance with the right of either party afterwards to apply for a variation?

Sir John Simon: I realise that is an important distinction; but before I deal with that, may I add this? We do not in any way seek to limit the procedure before the tribunal to an investigation into the reasonableness of the increase of the rate, which of course is the question under the Act of 1894, the amount by which it has been increased, we should be quite prepared to see the investigation applied to the whole question whether the rate under discussion is in the circumstances reasonable or not. I will deal in a moment with the question of whether it should be altered first and then subject to challenge, or whether it should have to be proposed and discussed before it comes into operation. I only venture to add this observation, which I should have

put by way of cross-examination if we had been dealing with it by that method. I cannot help thinking that it is rather fanciful to suppose that a trader or a prospective contractor, as a matter of fact, when he contracts or tenders, begins searching the rate-book to examine what is the maximum statutory rate that can be got. As regards my own small experience of these matters from cases in the Munitions Court, I do not think that happens at all. I should have thought—and practical people will tell you on both sides—if there were a question of entering upon some large contract when no doubt the contractor is much concerned to secure his position as regards cheap transport, no doubt he sees the railway company and endeavours to ascertain what is the best they can do for him; but that it is really a thing that is governed by searching out what is the statutory maximum rate in the classification, I venture to think is very doubtful.

Mr. Balfour Browne: Might I say that I understood you were going to state what you still contended and where you could agree, but not to argue the points at this time; and the latter observation is an argument.

Sir John Simon: By all means, let us leave the arguments to Mr. Balfour Browne, and I will confine myself to statements of our views.

Mr. Balfour Browne: I want to find out where we are; and we can argue at a later time.

Sir John Simon: Let me now deal with the Act of 1894. I have already referred to it incidentally in saying that we should have thought it fair and right to allow the reasonableness of the rate, as a whole, to be the subject of challenge as distinguished from the discussion as to the reasonableness of an increase. But we advocate strongly that Section 1 of the Act of 1894 should be repealed. We think that in its place, side by side with the abolition of statutory maxima, there ought to be provisions in the new Act (which, I suppose, will follow the recommendations of this Committee) which will set out the procedure that will be followed where a whole rate is complained of as an unreasonable rate. The method which exists under the Act of 1894, which is familiar to all the members of the Committee and to us here, is, we think, a matter which should be removed by repeal. In the third place, let me deal with the matter which the Chairman put to me—the principle on which rates should be fixed in the first instance and varied from time to time. Let me first of all say that we adhere to the views which are set out in our printed memorandum in the lower half of page 12 of Cd. 682. I will just mention the two matters mainly dealt with there. First of all, our submission is that, of course, in fixing these rates in the first instance and judging of their reasonableness the governing condition is a commercial, a business condition; it is not a technical or legal consideration at all. I do not think it is disputed that the Company's rates and fares should be such that in the aggregate they will normally yield a proper return on its capital or value; and, of course, it is most important to remember that railway development and the attraction of capital to the railways in the future will depend on a proper business relation existing between the charges made and the remuneration to the companies. On the other hand, we point out at the bottom of page 12—and it is very important consideration—that in our view it is very difficult for anyone to condescend to detail—useful, practical detail—about the principle on which rates should be fixed in some connection at any rate until the future is known as to the future organisation of the railways; because, of course, the obvious condition that the undertaking must be a self-supporting undertaking, its charges must be in sum fair for the purpose of securing that result, is a proposition which must be applied rather differently according as the unit which will judge (let us say) the Great Central, or the Great Central, the Great Northern, and the Great Eastern in one group, or as an even larger group. The Chairman and the Committee have their own view, and I dare say their information as to

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SIR JOHN SIMON, K.C.

[Continued.]

the course which it would be proper to follow later when we have to try and apply the principle of fixing rates in the first instance. I do not mean by this that all companies are to pay the same dividend or to earn the same net return on their capital; nor do we mean that the rates on two railways serving the same district should differ according to the degree of earning power of each. In our view the rates should be such that, whether you take the lines as a whole, if that is the decision, or taking a company that in the past has earned a fair return upon its capital, and assuming efficient management, the rates should be such that the gross receipts from rates and fares will from time to time cover working expenses with a fair margin for profit or return on capital. On the other hand, if you take a company that in the past has been able to pay no dividend or only a small one, then that company would, in the absence of some improvement in its circumstances, have to be content with a smaller return than its neighbours, but such differences between companies might, of course, be materially affected by amalgamation. Mr. Balfour Browne pointed out that amalgamations which would reduce the total number of railway companies is a matter which might be contemplated by the Committee.

Chairman: Mr. Balfour Browne seemed to me to say that it was impossible to take capital because some companies had charged less from capital, and it was impossible to take value because a valuation was altogether a too difficult thing to be carried out. Now, since hearing those objections, I wondered whether this scheme was a possible one, because here, of course, we are not two parties fighting each other, we are three parties each trying to help the other to get at something which is right and proper.

Sir John Simon: Yes, that is all.

Chairman: And, as one of the parties trying to help the others, I wondered whether this was a simple scheme—it is simply an attempt made yesterday, without consulting my colleagues, to see what was possible: That you ascertain a sum which in the aggregate is necessary to provide all the costs, charges, and expenses of rendering the services required by the traders, including a fair rate of profit to the railway company, a fair rate of profit to be deemed to be a sum equal to per cent. upon the capital properly employed by the company in the business of transportation, including the provision of stations, goods yards, etc., etc.; and for the purpose of estimating this capital nominal additions to capital shall not be taken into account, but the rate-fixing body or tribunal, may make reductions in respect of capital which, judged by pre-war conditions, may fairly be taken to have been lost before the War, and additions in respect of accretions in capital value accrued before the War, and for the purpose of making estimates with this object may consider the net earnings of each company before the War as an index of how far the nominal capital should be reduced or increased. For example, a company which had for a number of years before the War been unable to pay a dividend on its ordinary capital might be considered to be over-capitalised, and a company which before the War had paid a dividend in excess of per cent. on its ordinary capital might be considered to be under-capitalised. The idea being that the Great Central, not having paid a dividend on its ordinary capital, you would not take the whole of its capital into account in fixing the rate of interest it was to be allowed to earn on capital. If the London and North Western or the Great Western, having paid 7 or $7\frac{1}{2}$ per cent., you would not cut them down, but would only get on their capital the same as on a company which paid only 4 per cent.

Sir John Simon: We shall, of course, have that on the Notes.

Mr. Balfour Browne: I was going to ask that the statement you have made, being so important, should be handed to us.

Chairman: It will appear on the Notes.

Mr. Balfour Browne: We should have to wait until to-morrow morning for it. If you could allow, someone to copy it now we should be under a great obligation

to you, and I believe it would also help my friend.

Sir John Simon: We shall not be able to make up our minds about it in the course of the conversation to-day. It is a serious matter, but we realise the importance of the suggestion.

Chairman: It is only an idea thrown out by one member of the tribunal, you will remember.

Sir John Simon: I will remember that. May I make this one observation? It would be necessary to be sure that proper protection was afforded for a company which had not yet reached its period of full development.

Chairman: Undoubtedly.

Sir John Simon: You may have the case of a company which has been perfectly justified in making a large capital outlay, but down to the time you are taking may not have got as much to show for it in revenue year by year as a company of older standing.

Mr. Balfour Browne: You are thinking of the Excess Profits Tax.

Sir John Simon: No, I am not.

Chairman: I think that is a very reasonable and obvious comment, and, subject to saying that, I want to avoid a strict valuation with an arbitration every time as to exactly how much capital a company was to be allowed. The words used here, "The pre-war earnings were to be an index," was meant to leave it to the tribunal to say what was the fair capital of the company, but to intimate what had been lost before the War.

Sir John Simon: I am obliged, Sir. The matter is on any view much too important for me to deal with it now.

Chairman: I agree entirely. I would not ask either you or Mr. Balfour Browne to express any opinion on it to-day.

Sir John Simon: I am obliged, Sir. That has been very conveniently mentioned by you now, and it certainly has a direct bearing on the matter with which I was last dealing. May I take next a matter which has bulked very largely in the discussions last week and which is very important—the question of the simplification of scales of rates? We have already in our memorandum—on page 13 of the Command Paper, I think—said something about that. As it is very important, however, I should like to deal shortly with it now in this way. First of all, it is agreed, I believe, that we must continue the system of classification; there must be classes. There is no dispute about that at all; and as far as class rates are concerned, as far as traffic carried to-day at class rates is concerned, the railway companies do not anticipate any serious difficulty in substituting for the point-to-point rate which stands in the station rate-book—the figure which you find there from A to B—scales of rates which, taken in conjunction with the mileage distances—which, of course, already appear in the rate-book—will enable traders to see at once the rate chargeable from one station to another. So much for class rates. I want to point this out more particularly as I think there has been a possible misunderstanding so far as class rates are concerned. Even to-day the trader has available, if he wishes to know, the information as to the disintegration of the rate; because, though it is true that in the station rate-book you simply find a lump sum of so many shillings and pence, he knows as it is a class rate what is the terminal charge, or the service or the station charge, inasmuch as the class rate, in fact, is built up by reference to those items plus the calculation at the proper class rate for the mileage. Therefore, as far as class rates are concerned, the disintegration problem does not really arise. The difficulty that has hitherto existed, so far as there is any difficulty, is in relation to charges that are based on class rates and, of course, the larger bulk of exceptional rates. Now, if you take the existing charges based on exceptional rates and get them in tariffs on the same lines as class rates already exist in schedules, you will by that process get the same disintegration readily available for the trader in the case of that portion of traffic that you already have the traffic passing at class rates.

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Take, for instance, grain, or iron and steel, or manure, or groceries—any of the list. If we can take those large groups of commodities which pass in great quantities, and if we can state the reasonable rate that is charged in the same way in which we state the elements that make up the class rate charge, then that will in itself furnish the same information for disintegration as already exists in the case of class rates. I put that in this way; that as regards traffic carried to-day at exceptional rates—though, of course, the case is less simple—the companies believe that a very large number of these rates might be merged in scales or tariffs in the way you suggested, using the word “tariffs” in the sense of scales applicable to a single commodity or to a small group of allied commodities, and in the course of this Inquiry we hope to be in a position to submit, at any rate by way of example, a number of such scales or tariffs. Then as those scales or tariffs themselves will contain a statement as to terminal charges as well as to the intermediate haulage charge, it follows that that will meet, *pro tanto*, what is no doubt at present a difficulty—the difficulty of ascertaining how the rate is built up.

Mr. Jepson: May I interpolate something?

Sir John Simon: I wish you would.

Mr. Jepson: Do I understand that in translating the scales, upon which most of the exceptional rates are based, into a tariff the railway companies are going, in a rough and ready way, to disintegrate those rates, saying how much is for terminals and so on, on the scale?

Sir John Simon: Yes.

Mr. Acworth: Could you go further and tell us how they are going to allocate as between terminals and conveyance?

Sir John Simon: I cannot at this stage make a promise for the railway companies about that. As you know, there are these exceptional rates, though they do tend to follow a common formula having regard to distance, none the less they do to a certain extent vary on one side or other of the average line, and having regard to distance, if you were to plot out the charge would make exceptional charges which you would make for carrying a commodity you will not find it advance in precise, scientific, mathematical order; there are no doubt considerations which tend to make one lower and one higher than the strict, normal line.

Mr. Acworth: What I mean is this. Let us suppose that iron went at a class rate from A to B, which rate would be 20s. Supposing there were an exceptional rate for the same commodity in 4-ton lots and it was 15s. Now, that is reducing the total rate by 25 per cent.

Sir John Simon: Yes.

Mr. Acworth: What I was asking was, how do you allocate terminal and conveyance there? I do not ask you to say if you have not formed an opinion, but if you have formed one I should like to know it.

Sir John Simon: We have had some discussion amongst ourselves about it, and those instructing me have been thinking about it. One is almost tempted at this moment—no one will sympathise more than Mr. Balfour Brown—to murmur the sacred word “pick-cock” principle. I am not at all prepared to say on behalf of the railway companies that will be found to be the universal provider, but I am prepared to say that we aim at stating what are at present exceptional rates, carrying well understood kinds of goods—we aim at stating them, not as a lump sum but as composed of the elements, and thereby, as far as the tariff scales are concerned, we shall have done the same thing as is already done for commodities carried at class rates.

Mr. Davis: Assuming some mutual agreement is arrived at on the basis you have explained, the object is to do away with a large number of classifications and prices?

Sir John Simon: Yes.

Mr. Davis: Is that what I am to understand?

Sir John Simon: It would undoubtedly sweep out of the books a great number of rates existing now, some of which exist merely for historical reasons which it is

difficult to remove, and it would undoubtedly produce great simplicity.

Chairman: In Scale rates and traffic rates there would be an express statement how much was for conveyance and how much for terminals?

Sir John Simon: Yes, that is it. That leaves the point Mr. Acworth put, which is very important. The railway companies will have to do their best to help this Committee to judge on what principle, by what formula, you are going to take out of what is at present an undivided total, the portions which represent the terminal charges; and I agree that it is a problem which it is easier to state than to solve. There now comes something which is still left. Different people will have different views as to how important this residue is. The railway companies' own view is that it will be found to be a substantial residue. Even after you have added to the existing eight classes intermediate tariff scales, which I take it will take their place between a class for given commodities, you will undoubtedly be left with a number of cases which do not fall within any tariff scale—commodities which are not within the tariff—and the railway companies own view is that it will be found really, when one looks into the actual complexity of modern traffic, that these are numerous. From the railway companies' knowledge of trade conditions, they think they ought to point out that this process of simplification is a thing that will really have to be carried through with considerable care and deliberation; because it would be a most unwise thing in the interests of everyone simply for the sake of uniformity or simplification—perhaps I may call it without offence, theory—to interfere unduly with the practical conditions under traffic often has to be carried; and in any case it will be found that there will be many exceptional rates, we fear, which will have to remain if dislocation of trade is to be avoided. As regards those, since they will not be built up by adding together on the face of the rate-book the different elements to make the total, the problem which Mr. Acworth propounded, of course, arises in a more extreme form. But I will make this observation. If a trader comes and asks a railway company not to carry his goods at that which is determined to be the reasonable standard rate, the tariff rate, but to give him some special and lower rate, it does not follow that the trader is really being in any way affected, because he is left to apply, as he applies to-day, for the disintegration of that rate as well as can be done under the terms of the section in the existing Act of Parliament. We shall have to consider whether or not anything more than that is, in the circumstances, really possible.

Chairman: Is not the trouble not with the trader with whom you have the exceptional rate, but with his rival who says, “Having given Mr. A an exceptional rate, I must have it too; and inasmuch as I do not want terminal facilities because I have a siding of my own, I want to have Mr. A's exceptional rate with terminals taken out, and, therefore, I want to know how much I am to take out.”

Sir John Simon: Yes, no doubt; and that is why railway companies are, under the existing machinery, asked to disintegrate the rate.

Chairman: The traders say that they never do it.

Mr. Jepson: It is constantly done, of course, but it always carries the qualification that it is fictitious and misleading, because the rate has not been built up on any system of that kind. That was one difficulty I felt when you expressed just now, on behalf of the railway companies, the intention to disintegrate these exceptional rates which have not in the past been built up on any principle or so much for mileage and so much for terminals, but had been fixed as a lump sum.

Sir John Simon: I know it is a difficulty. But the Chairman pointed out the great importance of meeting this demand, as far as one could, for simple disintegration, and we have felt that if it can be done the setting up of these tariff scales for large classes of commodities, putting them on the same level as regards detail as the class charges,

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would really be if it could only be managed the most satisfactory way of meeting that difficulty.

Chairman: It will go a long way; and we shall see whether the trader says that it goes far enough.

Sir John Simon: Yes. May I say in a sentence on uniform scales that the railway companies view most sympathetically any attempt to bring about uniformity of scales throughout the country? They wish to co-operate in that as far as they can; so far as that can be done without upsetting trade or injuring interests which the railway companies are bound to consider on their own side. It is plain, I think, that you could not have an absolute uniformity; some exceptions are probably inevitable; and here again a good deal may depend on the future grouping of the railways. If you have a larger unit, then the only thing that matters, perhaps, from the financial point of view is that the total product should be adequate to the unit. If you have smaller units obviously you have rather a different test to apply. Then something was said on the graduation of scales, and the Chairman was good enough early last week to indicate—simply for the purposes of discussion, I think—what I may call a token table—a table which contains some token figures. About that I have these two things to say. First, it appears to us that perhaps that goes rather into the second than into the first part of this Inquiry. You will, of course, correct us if we are wrong about that. But even if it came into the first part, the railway companies are not really able at present to express an opinion upon the model scale which you tentatively put forward. As a matter of fact, we are having it examined by our experts; but it is obviously difficult to fix such scales even in token figures, and a good deal will depend on the number of classes in the classification—I am including tariffs as well as classes—before you really could draw up such a scheme. I have heard this observation already made, which perhaps the Chairman will allow me to repeat—I know it is doubted by some of my experts—whether it is right to begin from the coal end, to treat that as a kind of normal which will subsequently vary; whether, as a matter of fact, the true way to construct such a scale is to start rather in the middle of the different alternatives and then go up and down from that. That, perhaps, is a matter which the Chairman might be glad to know because it appears to be a fundamental distinction. But we certainly hope to be able to make a definite recommendation on the subject of the graduation of scales by the time the second part of the Inquiry is reached; though we have not found it possible to make a concrete comment on the scale you tentatively put forward.

Chairman: I rather thought that the second part of the Inquiry would not bring the whole of the traders and the railway companies together; that we should be hearing people much more separate. Then we must not overlook the fact that every change in the class affects everyone to some extent; but we should not be bringing the whole of the country together to discuss the question whether, say, pianos, should be in the fourth or in the fifth class. It may be necessary to keep that back. I thought it was rather a general matter whether high-class goods should be five times as much as coal, or whether we should take Class C as the test and take it as 100, and whether coal should be 30 per cent. and Class 5 250 per cent.; that was rather a general proposition, if you look at trade as a whole and not to the particulars.

Sir John Simon: We are not anxious to postpone it to the second part simply for the sake of doing so. But there is something about it. You may regard that kind of question from two points of view. On the one hand, you may simply be discussing whether it is right that you should charge four times for this commodity what you would charge for coal; that is comparing the two commodities and considering their cost and importance, the expense which is involved in hauling them, and so on. But you have also to remember that in the end adding up all the charges has got to produce the necessary sum. Therefore you cannot confine yourself simply to saying one should be so many times the other, because it may be that one of the commodities is a commodity which

really cannot be charged more than a particular amount; and if that is the case, if you are to get your total right, then something else must be charged to the rest. Consequently it is not simply a question of comparing two commodities without regard to the total produced.

Mr. Jepson: Having regard to your last remark, would it be convenient to ask you now as to the basis on which the railway companies are going with regard to the amount to be produced by the new scales? For instance, you have the pre-war net revenue of the whole of the companies, to that has been added, or it is estimated there has been added, an additional £50,000,000 by the advances that took place on January 15th by direction of the Ministry of Transport. Are you budgeting for the pre-war net revenue plus £50,000,000, or something in addition to that; because I understand that since those advances were authorised in January last the railway companies have been subject, and will still be subject, to much greater increase? Are you budgeting for present day net revenue, or are you taking some fixed date and working from that?

Sir John Simon: I cannot answer that question. If I were to put it as I wish to speak quite candidly it would probably be correct to say that we are not budgeting at the moment for the one or the other.

Chairman: I think that is right. We shall not budget until we come to the third part of the Inquiry.

Sir John Simon: That is the real answer. I imagine what has to be done before we finish this difficult business is that a series of scales and tariffs, no doubt in considerable detail, will have to be put forward, and it will be the first approximation which is the best the different parties can do; but it will all have to be subject to this, that before they become approved and recommended we shall have to see how they work out in bulk; and it is conceivable, of course, that might involve some reduction or some addition.

Mr. Jepson: What I want to get clear is this. There were these certain scales that were in operation pre-war for exceptional traffics like grain, timber, iron and so on. These scales have to be turned into a tariff. Of course, it would be useless simply to turn those figures into a tariff and say those were the pre-war rates. You have to add something to bring them up to the new standard. And I should imagine that the railway companies would have done something like this: Added on to these scales the percentages to which the actual rates, based on those scales, have been subject during the last few months, and then, if it were necessary afterwards to say we want, in order to produce sufficient net revenue, to add another 10 per cent., or 15 per cent., or 20 per cent., it could easily be done. You must have some basis, I should think, before you attempt to do it.

Sir John Simon: I see that very clearly. I do not know, and therefore cannot say, the method which it is proposed to pursue; but I have no doubt what you have been saying will be observed, and be of great value in working that out. Might I just deal with a small matter which had better be dealt with separately, and which is continuous mileage? There is a slight misunderstanding here, and I had better clear it up. I see that Sir George Beharrell, on the first day of the present stage of the Inquiry, at page 6 of the Minutes of Evidence, in answer to Question 24, observed that "It seems to be generally conceded that rates should now be based on the continuous mileage principle." It is not a matter which the railway companies are in the least disposed to conduct a bitter quarrel about, but, in point of fact, as you will see if you turn to page 13 of the White Paper, which contains the observations of the Railway Association, they did not and do not now wish to be understood to recommend continuous mileage. The reasons why, properly understood, it does not so much matter to the railway companies, of course, is, that the only result of adopting the system of continuous mileage

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will be that there will be a rather higher mileage charge, and that is all.

Chairman: Certainly.

Sir John Simon: It therefore really does not matter.

Mr. Balfour Browne: That was suggested by Mr. Jepson in the course of the examination of one of the witnesses.

Mr. Jepson: I think that must be so.

Sir John Simon: I think that must be so. There are one or two other considerations which are perhaps worth mentioning, though I will not argue it. I am not at all satisfied that you could adopt continuous mileage without raising some questions about undue preference, although it might be adjusted by law. For example, if traffic which is passing from London to Glasgow via Carlisle is to be carried on a calculation of continuous mileage, then it follows that that traffic which is passing to Glasgow from Carlisle on the last part of the journey is being carried at a cheaper rate than the traffic which is originating on the railway between Carlisle and Glasgow.

Chairman: Is the practice at present, where the railway company quotes a through rate for one or more lines besides its own and a certain sum is received, that the apportioning of that between the railway companies is done by themselves, and not strictly upon the compilation basis?

Sir John Simon: It is done entirely by themselves.

Chairman: And not strictly upon the compilation basis?

Sir John Simon: It is not necessarily done on the compilation basis at all. The ordinary way that it is arranged between the railway rate departments in the two railways concerned so far as I know is this. All I know is I pay a single sum, and how that is divided between the railway companies is a matter which they arrange, and which is settled by the clearing house.

Mr. Jepson: Generally speaking, that is right, but after the deduction of agreed terminals between the companies, the balance of the rate is divided by mileage as between the companies. That is, generally speaking, the way it is done, but I would like to say this. I think it is right, though the railway companies will tell us later, that with regard to a company that has a very short portion of the journey, it frequently happens that that company gets what is called a minimum proportion—something covering it.

It would not be fair, if the goods were going a long distance and one railway company has a very short portion of that distance, that that company's mileage should be unreasonably reduced, because of the length of the journey. That is frequently the case.

Sir John Simon: That suggests this other observation, which I have also made a note of, merely that the Committee should have it before their minds. It is not the same point that Mr. Jepson puts, but a cognate point. The adoption of the principle of continuous mileage will raise, or might raise, a question about the right to make a short distance charge. Take the ordinary private Act of Parliament of a railway company. It is, as you know, entitled to make a charge which is greater than the normal mileage charge supposing that the traffic only runs a very short distance on its own line.

Mr. Balfour Browne: That refers only to one railway, not if it passes over two.

Sir John Simon: That is true.

Mr. Jepson: I think Mr. Balfour Browne's interruption is not the fact. It only applies where the two railways are worked by the one company, which would have to take it continuously. If the traffic has to be exchanged, each company is entitled to its short-distance charge.

Sir John Simon: That is my impression. If you have one company exercising its running powers over the other, I am not suggesting then you would get a short-distance charge in respect of the short piece.

Chairman: That would not be so in future, whatever it is at present.

Sir John Simon: I am speaking subject to correction, but my own impression is that even, although traffic starts on one railway and goes on to another, if it only runs two or three miles on the one, the lawful charge which may be made will be greater, because it only runs two or three miles on the other, because there is a short-distance charge. I am told it is a question whether really the engine is changed at the exchange sidings. That is another thing which has to be remembered. The broad point, and this is all the railway companies submit to you, is if the Committee determines to adopt the principle of continuous mileage, be it so; but the only result will be that that must not be forgotten when one is considering what is the proper mileage charge. I am assured that a very substantial difference would be caused. One or two of the railway experts have been giving me a figure which suggested the result might be quite substantial, and therefore it may have a material bearing, and is a very proper question of principle to decide, before one tries to fix the figures.

Mr. Balfour Browne: This question again, to some extent, depends upon what the unit must be.

Sir John Simon: I think it does. I entirely agree. It is true, if you adopt this principle, in some cases a smaller mileage charge will none the less produce the same total. Now one comes to the question of the disintegration of rates, and I think I have in effect already indicated what I wanted to say about it. You have a reference to our view on that on pages 14 and 15 of our Memorandum in the White Paper. I am instructed that I may say that the railway companies see no objection to the terminals and cartage being shown separately from the conveyance rates in the standard scales, if it can be managed in the tariffs. That is what I meant just now when I said we hoped it possible to be able to work it out in that way. In the case of what is called exceptional rates, there is a very serious problem. Now I may come to the question of the tribunals, and the kind of way in which the tribunals work. The view which the Railway Association wishes to put forward in substance is this. First of all, they call attention to what they said at the bottom of page 11 and the top of page 12 of their Memorandum. The railway companies, as I understand, are quite disposed to agree with the traders that the business question, as distinct from any matter of law, of what is a reasonable charge is a question which would be quite properly decided by a tribunal of a business character. The proposal of the traders that there should be apart from the Railway and Canal Commission some body of that sort is one which we shall be quite prepared to co-operate in and support. On the other hand, the railway companies are opposed, and they venture to think that a large number of traders will be found to be opposed, to the sweeping away of the Railway and Canal Commission. It is not the railway companies' fault or the traders that sometimes the Railway and Canal Commission may not, in its personnel, appear to have been constituted in obvious accord with the provisions of the Act of Parliament. We shall be very glad to see it constituted in the way the Act of Parliament suggested, because it is most desirable that one should get a thoroughly representative trader and a thoroughly representative railway expert in addition to the Judge there. But there are such big interests involved, and interests which do not affect merely the litigants who are before the tribunal, but others outside and traders as a whole, that in our submission, it would be a mistake to get rid of the Railway and Canal Commission.

The question therefore would be what kind of question could properly come before the business body, and what kind of question could come before the other tribunals. There are various suggestions made before you about that, I am not going to develop it now. It is enough to indicate that we are quite prepared to agree that there should be a business

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body; but we are not in favour of the abolition of the Railway and Canal Commission for all purposes.

Chairman: You will at some later date give us some indication of what division you think fair?

Sir John Simon: Yes.

Chairman: It would not be right to ask you to do it now, but it will be done at a later date.

Sir John Simon: It must be done, undoubtedly. I want to indicate the view which we were disposed to take as to how, with the help of one or other of these Tribunals, there might come about changes in the rates charged. Here I am bound to protect myself expressly by saying I am speaking somewhat provisionally, as it is a difficult subject. The view which we were disposed to put before the Committee, and which we would ask them to consider would be this. I will assume that we start off with a set of rates—it is a tremendous job—which are recommended and ultimately approved and brought into force as being reasonable rates and chargeable rates, which will be charged. It would be too much to suppose that even the wisest Committee, with the most accurate analysis, will be right in every instance, and it is quite certain that instances will arise where it has got to be altered. Besides that, conditions may change. We wish to point out when conditions change, when, for example, there is a demand for higher wages just acceded to, we certainly would not have to wait until there has been a decision by the Tribunal about an increase in rate. The workman will want his increased rates as soon as the granting of them is authorised.

Chairman: On the following Monday?

Sir John Simon: Yes. Though I am sure this new business Tribunal is going to work very rapidly, it is quite certain, if the railway company is to wait until the Tribunal has decided whether the increase is reasonable, we shall, in the meantime, be put to increased expense and receiving nothing for the time being, to meet it. The proposal which commends itself to some of those who have been advising me is this: that it shall be competent to the railway company to give notice—yes, think the notice ought to be one of substantial length—that it proposes to vary the charge, stating the grounds on which it claims that the new charge is a reasonable charge, and that that should be a public announcement. If that is challenged by the Tribunal, the trader, in challenging it, should go to the Tribunal and give notice that he challenges it; but that should not thereby hold up the increase. The increase should come into operation at the end of the statutory period, but the Tribunal before which it comes might have a limited power to postpone the increase for a limited time, if it saw reason to do so. That, I rather think, is the method which is followed in America. My information is that in America the Tribunal, merely because it is waiting to decide the matter, does thereby postpone indefinitely the change in the charging of the rate; but it is in the power of the trader who objects to the variation to apply to the Tribunal, and the Tribunal has then for a limited time the right to say: "Well, the case you make *ex parte* is such that we think it right to order there shall not be an increased charge for so much longer. In the meantime, hurry up and we shall get this matter decided." We should be opposed to the idea that there should never be a variation either up or down, I suppose, in the authorised and normal charges, in spite of proper notice and in spite of, it may be, urgent need, until the matter has been decided, because Heaven knows in some cases how long that will be.

Mr. Balfour Browne: I am not criticising it, but I think this is a new suggestion.

Sir John Simon: I think it is. We have been looking closely into it to see what the American practice is. As I follow it—I am speaking subject to correction—in the American practice it is not the case that the railway companies are left waiting for their new rates until the matter is decided. They give a notice; the trader has the right at once, if he pleases, to register his objection. If the trader can persuade the

Tribunal, which will ultimately have to decide the matter, that there ought to be a further delay before the increased rate is put into force, then that further moratorium is ordered by the Tribunal, and the matter is decided as soon as may be.

Mr. Balfour Browne: It is held in a kind of suspense.

Sir John Simon: Yes. I am told if one looks at Section 418 of the Transportation Act, 1920, passed by the Senate and House of Representatives, the Congress Act, you will find what the position is about that.

Mr. Balfour Browne: If the tribunal ultimately determines that the increase was too much, the amount would have to be paid back?

Sir John Simon: Certainly, as is the case nowadays. Sub-section 7 is worth while reading, if I might do so. Sub-section 7 of Section 418 of the American Transportation Act says this: "Whenever there shall be filed with the Commission any Schedule stating a new individual or joint rate, fare or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare or charge, the Commission shall have, and it is hereby given, authority either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation or practice; and pending such hearing and the decision thereon the Commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule, and defer the use of such rate, fare, charge, classification, regulation or practice, but not for a longer period than 120 days beyond the time when it would otherwise go into effect." Therefore, the operation, as I follow it, is that you do not in America have an abstract rule that no railway company can ever get an increased revenue to meet a new emergency until the tribunal has pronounced that the charge is reasonable, but what you do is, the railway company schedules or advertises its proposed new charge, and then it is competent to the tribunal, either on its own initiative or on the application of the trader who complains, to say: "Well, considering the circumstances here, we do not think this matter is so urgent, or we do not think your case is so obviously strong but that you, the railway company, should not pause before you put this charge into operation." That is, or may be, a considerable protection to the trader. We thought at this stage the reference to that American practice might be useful to you, though, as I have warned you, I am speaking here provisionally, in that we have to consider a great many railway companies who have views on this subject, and we are anxious, if we can, to get them all into line.

Mr. Jepson: I think that is an amendment of the old law. The old law did involve the railway companies waiting until a proposed increase had been sanctioned by the Tribunal. I suppose it was because of the difficulties which they found that they had to amend it.

Mr. Acworth: I think Mr. Jepson, if I may say so, has not got it quite right. The old law gives the Interstate Commerce Commission power to suspend for a period which could amount to as much as 10 months. As a matter of fact, in practice they nearly always suspended anything of any importance, and it was felt that the railway companies had been unfairly treated. If you look at the section, you will find that, in addition to 120 days, there is another possible 30 days, so in practice it reduced the 10 months to 5 months.

Sir John Simon: You are quite right.

Mr. Acworth: Whether it will alter the practice of suspending as a matter of course remains to be seen. That depends on atmosphere.

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Sir John Simon: Yes. Our submission to the Committee is plain. We quite recognise a case may arise in which it would be proper for a Tribunal to prevent the railway company from charging what one may call straight away. At the same time, we think we ought to have that power after proper notice. There are cases in which it is obvious that we should, otherwise our whole financial arrangements may be very seriously embarrassed.

Chairman: We were told the other day that the effect of the agreement, which followed the Dockers' award, would cost the Port of London Authority alone £40,000 a week.

Sir John Simon: Quite.

Chairman: The Port Authority, being a statutory body, it had not got 40,000 spare sovereigns.

Sir John Simon: There is another consideration which I may put forward on my own motion. I have been much struck in recent months in the ordinary practice of our profession with this fact. It is obvious, is not it, that there is an increasing tendency in this country with traders to make contracts quoting a price with a clause that if there are additions to certain existing classes of charge—sometimes it is wages, sometimes it is other things—is to involve a modification in the price quoted. Of course, if that practice prevails there really is no objection, from the traders' point of view, to our saying it is much better for you to face a burden which you will have to carry apparently when it arises, and there is no advantage in postponing it until the matter is decided.

Mr. Abady: Might I ask Sir John if he will make it clear whether the Tribunal is to have power to postpone the increase only on objection by a trader on his own initiative?

Sir John Simon: I do not wish to commit myself to that. I should not be justified in doing it. It is perfectly true, as far as American practice goes, it would appear that the Commission has power to do much as it chooses, but whether or not that would be proper in the present case, no doubt the Committee will consider. I pass to what is in itself a small matter, but it was definitely mentioned, and we have a definite piece of information to give the Committee on it, and that is, as to the proposed classification of stations. It is a matter which those advising me have gone into closely, and it was investigated some years ago, as Mr. Jepson may perhaps remember. The truth of the matter is that, although at first sight anybody discussing this in the abstract would expect you should classify stations from the point of view of a proper terminal charge, having regard to the character of the town in which the station is, it will be found, if you actually test it, as it has been tested, carefully, by statistics, that that is not a sound principle of distinction. Presumably, the reason is that, whereas you get some elements which tend to be increasingly expensive in big towns, on the other hand, in big towns you get such an accumulation of traffic that what you lose on the swings you gain on the roundabouts. At any rate, it is quite plain, from the material which is at our disposal, some of which I have seen, that you cannot safely say the terminal charges at stations should be founded on some principle of that sort. We will go into the matter further, but at the moment all we wish to do is to say we think in this respect the suggestion of the Ministry of Transport, that station terminals should vary according to the size of the station or town in which they are situated, is not a suggestion which ought to be accepted without a good deal of precise investigation and testing. The suggestion, no doubt, is made on the view that terminal costs increase with the size of towns or stations, but at present we are inclined to the view that an all-round scale of terminal charges for all stations, varying only with classes of traffic, will be found to be the best course, as, of course, it is the simplest course.

Mr. Asworth: I was told that evidence was given before Lord Balfour's Committee of 1891 or 1892 on that point. Can you tell me whether it was given?

Sir John Simon: It was given, I know, because I have seen it.

Mr. Asworth: You have not a note of it at the moment?

Sir John Simon: I have not the note at the moment. It will come. It was given in the Committee. It is a curious table. What was done was that some specimen stations were taken, of different classes, rural stations, small towns and big provincial towns, and so on, on each of the big railway companies. They took them entirely at random, believing they had fair instances. They did not know what was going to happen, and instead of getting, as they rather anticipated to get, a curve which gave them some sort of line, the whole thing went zig-zagging up and down in a most absurdly irregular way, and it was found quite impossible.

Mr. Jepson: Mr. Marshall Stevens in his evidence the other day purported to give copies of statements which were put in in 1891 and 1892, when the Joint Committee had the matter under consideration. Those have been reprinted as appendices to Mr. Marshall Stevens' evidence on the second day.

Sir John Simon: We will look into that. I only wanted the Committee to know that, though the railway companies desire to help as much as they can, they doubt very much whether that classification will be found of any assistance.

Chairman: I think the original proposal of 1891 was that it would be a different terminal for every station, because it was costing differently at every station.

Mr. Jepson: I think Lord Balfour and Mr. Courtenay Boyle did ask the railway companies to produce evidence to show the cost of terminal services at various classes of stations on the railway. When they had those figures, after hearing the evidence from the railway companies, the Committee, or Lord Balfour and Mr. Courtenay Boyle, decided to take a sort of average all round, and, as you all know, all the Provisional Order Confirmation Acts contained a constant figure for terminals, only varied by the respective classes.

Sir John Simon: That is right. Our own view is, and we offer it to the Committee for their consideration, that we think it will be found that, although it does not sound very scientific, it is undoubtedly the simplest course, and we believe it to be the soundest one.

Chairman: I do not think the traders really asked for a change.

Sir John Simon: Sir Lynden reminds me that in the Railway and Canal Traffic Act of 1888 there was a direction as to what was to be done in revising the classification, but it was found unpractical, and they could not carry out the directions. The Section is Section 24 of the Railway and Canal Traffic Act, 1888, Sub-section (1): "Notwithstanding any provision in any general or special Act, every railway company shall submit to the Board of Trade a revised classification of merchandise traffic," and so on. The Sub-section ends: "In the determination of the terminal charges of any railway company, regard shall be had only to the expenditure reasonable and necessary to provide the accommodation in respect of which such charges are made, irrespective of the outlay which may have been incurred by the railway company in providing that accommodation." When they set to work to try and draw it up, by the common consent of everybody it was found necessary to adopt some form of all-round figure. Another small topic, though not small in its range, is the question of wagon hire, and the difference in practice which prevails on the Scottish railways and the North Eastern Railway on the one hand, and the rest of the kingdom on the other. There was a suggestion thrown out that all goods for class A traffic should be quoted *ex* wagon, as railway Latin says. That is one that can be dealt with at the present stage, for a reason which will be obvious to the Committee. First of all, the

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system throughout Great Britain will be completely altered if the Minister of Transport exercises the powers which are conferred upon him by the Ministry of Transport Act to buy up traders' wagons. That will affect the situation very seriously. Then, again, on the Scottish railways and on the North Eastern Railway the practice is to carry mostly in the company's wagons, and unless those railway companies are amalgamated with the groups which have a different practice—in which case you would be marrying together two enterprises, and you would have to have some common rule—there does not seem to be any good reason for taking a step, which has only this to commend it, that it will alter the existing practice. There has been a long understanding of what is done on the North Eastern and the Scottish railways, and at present it is difficult for the Railway Association to make any recommendation that there should be a change. Then a question was asked about export and import rates. I have a short statement to make about that. First of all, as regards export rates, the companies have in the past quoted special low rates for the encouragement of export traffic, and they wish to have liberty to continue this policy. I was going to give a reference to something which I notice Mr. Jepson has said, but I will not pause to delay going into it now. As regards the import traffic, the low rates on import traffic have in the past been quoted either in competition with direct water-borne traffic, or as a feature of the distribution of traffic between competing ports. The railway companies consider that it is essential to maintain the arrangements which permit that to be done. The reference to Mr. Jepson's observation was on page 8 of the second day, at the bottom of the first column. I see Mr. Jepson said: "Is the suggestion of the Federation that the railway companies are not to carry such traffic in future? There is a very large, or was a very large, cross-country traffic between Hull and Liverpool in competition with Antwerp, and very large cross-country traffic between Liverpool and London in competition with sea. Now we have Southampton and London. Are the railway companies, in the view of the Federation, to be prohibited from carrying that traffic?" You will see at the top of the next page what Mr. Balfour Browne says. Our view is that really we do not believe it is in the interests of those whom the Federation represent, any more than the interests of other traders, that there should be an alteration in this regard. Mr. Jepson put it again a little higher up on page 8 in the left-hand column: "Before you pass from that, is that the considered view of the Federation with regard to foreign produce, because I imagine that the London and South-Western Railway Company's answer to that case would be this: if we did not carry for 5s. between Southampton and London the traffic would go by sea to London, so that the inland trader has to meet the same competition in London, and the London and South-Western have lost the traffic." That is what I wanted to say at this stage about export and import traffic. Somebody mentioned—I think it was Mr. Marshall Stevens—the exceptional class, Part 4 of the Rates and Charges Order, the part which deals with articles of unusual bulk or weight, and with various special classes of traffic which are not charged at class rates. The railway companies are entirely at one with the suggestion that the classification should be extended as far as may be, so as to embrace more of those articles than are included in the present railway clearing-house classification. We should be quite glad to co-operate about that. The question of what is a reasonable rate for such articles could be dealt with in the same way as the question of reasonable rates generally. That, I suppose, will meet the difficulty about heavy weights, particularly, and perhaps some other classes of commodities. It is quite obvious in saying that that the railway companies are not offering to qualify their view as to dangerous goods, such as chemicals and things of that sort of an explosive

character, which are carried under Part 4. In the general interests of trade we feel it is very important that we should maintain strictly the power we have to prevent the trader forcing us to carry explosives which will affect other people's goods besides the goods in question.

Chairman: Would you allow an appeal to the tribunal as to whether an article is dangerous or not? The complaint has been made that the companies put into the "dangerous class" articles which the trader does not consider to be dangerous.

Sir John Simon: At present I think I am right in saying the railway company has a discretion to say an article is dangerous though it has to be a *bond fide* discretion. I do not think those instructing me would be prepared to give that up. It is obvious, is not it, that the trader would naturally like to get a cheaper rate. He is under a very strong impulse to bring all his guns to bear to prove that something was not dangerous in order to get a cheaper rate, whereas our interest in the matter is not the mere interest of getting rather a larger rate, but our interest is to protect the traffic of lots of people who are not before the Court at all. That is the question. For practical purposes, the question does arise in the form in which it is being discussed, as there is a case going on before the Railway and Canal Commission Court now where the matter is being discussed whether certain articles are dangerous or not, though the railway company do not, speaking *bond fide*, think they are, and for reasons which they say are really conclusive of the matter. May I just in one sentence deal with the suggestion that rates should be fixed on cost of services? Mr. Acworth put a question or two the other day to ventilate that claim. The railway companies wish to say quite bluntly they do not regard that as a practicable suggestion; first of all, because of the complexity of the investigation necessary to ascertain or estimate such a cost—I think that is the view of a good many people who have tried it—secondly, because, subject to the rule that the rate must always cover the working cost, or the sum of rates must cover the working cost, the services into the station ought not to be the sole factor, and perhaps it is not even the main factor.

Chairman: Does anybody seriously think it should be?

Sir John Simon: We cannot believe so, and I do not say another word about it.

Chairman: I should be inclined to state the proposition in this way. No rate must be less than the cost of the service; no rate must be above the value of the service. Between the two a number of elements must come in, in which cost of service and value of the service must be included. That is to say, if it is more costly to handle a particular article, the rate must go up.

Sir John Simon: I should have thought so.

Chairman: If an article cannot bear much rate, as, for instance, iron ore, which is of small value, which is in competition with iron ore from Spain, the rate must be kept down. It is impossible to draw a rule which would be at all scientific, and except for those limits you can only say those two things have to be taken into account as best you can.

Sir John Simon: I venture to think so. There is another point, and a smaller point, which is that, though it is claimed to be such a scientific way of doing it, it is really at bottom not scientific, for this reason. There are elements in cost which you attribute to the character of a particular article only conventionally. Take, for instance, your salaries list. You take a very small fraction of the salaries list, and you say that that represents the cost of carrying this article. That is doing nothing more than spreading the thing out very thin on the principle of average. There is nothing very scientific about that. It may very well be that it is not a normal case. One article costs rather more in salaries, and another costs rather less. The same is true of about nearly every other service involved in a particular piece of traffic, so I

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dismis that so far as we are concerned. There are two other little matters I must mention, and then I will deal with the question of owner's risk. Perishables by passenger train was mentioned by a witness or two. Margarine was the only article which was actually mentioned, I think. The railway companies would be very glad to consider any suggestions with regard to the extension of articles specified in Part 5 of the Rates and Charges Order. I suppose that is rather more a matter for the second stage of this Inquiry than the first, but if anybody has any other suggestion to make besides margarine, we shall be glad to receive it, and do our best to save the Committee's time on that. As regards the unit of charge, when you speak of a rate per ton of a commodity carried in what quantity, may I point out that at the bottom of page 13 of our Memorandum we made reference to this, and I am instructed to submit our meaning is this. The railway companies suggest that in many cases the rate should differ according to the size of the consignment. Of course, there will be a small rate because there is a large quantity, but the basis of such difference should be not merely the quantity sent, but the relation between such quantity and the capacity of the truck; that is to say, that the proper way in which to vary the charge, having regard to the greater quantity, is to have a ton rate for the wagon loads, or so many wagon loads, or whatever it may be. The way which has sometimes been followed in the past, and prevails now, of quoting simply per lot or per consignment of so many tons is not a very satisfactory or a very scientific method. The better method is to aim, so far as possible, when you are allowing for the fact that large quantities are going to be got, at the ton rate for the wagon load or something equivalent.

Chairman: If people sent $5\frac{1}{2}$ truckloads, would you charge them for six truckloads or $5\frac{1}{2}$ truckloads?

Sir John Simon: I do not know what we do about that. I should have thought they had better send six if they want six.

Chairman: A farmer may send a whole crop, and it may come to $5\frac{1}{2}$ tons. The farmer would naturally say you had better charge him for five tons. Do the railway companies say he ought to be charged for six truckloads?

Sir John Simon: Sir Lynden has been making inquiries for me, and he tells me that, as a matter of fact, the practice differs with different railway companies. It is not a very desirable state of things that it should, and probably we can see whether or not later on we can suggest a practice which might be more uniform.

Sir Walter Berry: May I put one more point on that? Take straw traffic. A ton of straw is tendered to the railway company, and the farmer is offered a truck which will only take 15 cwt. The difficulty is with the 5 cwt. What is to be done? Is it to go in another truck and be charged as another ton?

Sir John Simon: That is another more extreme instance of the same point, I suggest.

Sir Walter Berry: I mention it because it is the kind of thing which in actual practice is constantly cropping up. If it can be dealt with in some satisfactory way, it would be good business to get it dealt with.

Sir John Simon: I am much obliged. I can see it is a very important thing, and rather an irritating instance. Probably it is better that we should get it dealt with on fair lines, and we will try to do so.

Mr. Acworth: I do not know that I understand what you mean by quoting, as you called it, a rate per ton per truck. Was not that the phrase?

Sir John Simon: No, I meant a ton rate for a wagon load.

Mr. Acworth: How does it work out? What would the rate book say? I do not think I understand how you translate that into a concrete instance. Supposing it was iron ore, would the rate book say per ton per truckload, without the trader knowing how much the truck would take?

Mr. Jepson: Does not it mean that it would simply be an amplification of what you have today in the Rates and Charges Order Act? For instance, in Class A you have a minimum charge of four tons. It is still a ton rate, but if less than four tons is conveyed you charge as for four tons. Does not it really mean an amplification of that? You would say for grain so much per ton, six tons in a truck, or, if it was less than six tons in a truck, it would probably be a higher rate.

Sir John Simon: The object of it is to secure the full loading of the truck.

Mr. Acworth: I quite understand that, but if you took Mr. Jepson's suggestion, the minimum charge as for six tons, there is no mention of a truck. I thought you were producing something new—I thought you were going to produce something in relation to the truck.

Sir John Simon: I am afraid by rather shortening the statement I have not increased its clearness either to myself or to the Committee. It would be necessary to fix what would be a reasonable truckload, having regard to the class of traffic you are speaking of. With straw, you will not get as many tons in a truck as you would with grain.

Mr. Acworth: The trader would hear nothing about the truck. He would see with iron ore you must have, say, eight tons to get the rate, and with something that loaded lighter you would say the minimum was six tons or four tons.

Sir John Simon: I do not at the moment see why the rate book should not contain this information as to what is regarded as a truckload.

Mr. Acworth: Whether you regard it as a truckload or something else does not interest the trader. What he is told is the consignment for which he gets the low rate, and that is all he wants to know.

Sir John Simon: That is true.

Mr. Acworth: Do you want to put anything more?

Chairman: Surely there is a great difference between the two things. I understand Sir John is offering that for every full truck load sent the tonnage rate would be so much, but the view expressed was where the man sent 7 tons, and 6 tons was the truck load, would he get the lowest rate?

Mr. Acworth: Yes.

Chairman: According to Sir John he would, because he would have sent one truck load and one which was not a truck load. I am assuming 6 tons to be the truck load. If 6 is the truck load, and a man sends 6 tons, he would get the lowest rate; but if he sends 7 tons it would probably raise the question whether he would get the lowest rate on the 7 tons, or would he get the lower rate on the 6 tons and the higher rate on the 1 ton?

Mr. Acworth: That would be fixed on what the commodity was.

Sir John Simon: There are some things whose bulk are greater than others.

Chairman: That is not what puzzles me at the moment. Supposing our commodity is iron ore, and 6 tons will load a wagon, and a man sent 61 tons, he therefore would pay for 10 wagon loads at the low rate; but what is he to pay for the last ton? Is he to pay for it at the lowest rate, on the assumption that he has sent a truck load, or would he have to pay at the ordinary tonnage rate?

Sir John Simon: That is the question, but I rather think the ton rate. However, that is rather a technical and somewhat closely defined thing on which I had better call a witness to give his expert view about.

Mr. Jepson: I do not know in practice that it would arise in sending iron ore. It is not sent in amounts like 61 tons. They fill up trucks at the quarries and the great thing the railway companies have to provide for, I imagine, is a minimum of so many tons a truck. If such a case did arise as the Chairman referred to, certainly on the eleventh truck that contained 1 ton to-day, 4 tons would be charged for, but it is not done in practice like that.

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Chairman: I daresay I chose a wrong instance in iron ore, but straw would be a case in point.

Sir Walter Berry: Straw happens fairly often.

Mr. Jepson: It does seem to me that you want a minimum of so many tons per truck, according to what is the reasonable truck load for any particular article. That is encouraging better loading.

Sir John Simon: You must make the best use of the available trucks, and at the same time there is a justification for charging the trader less, because as a matter of fact you are getting the whole of his commodity into a limited space.

Sir Walter Berry: To safeguard the traders' interest that he does not pay more, because the truck put at his disposal is not suitable for his commodity.

Sir John Simon: That is a most serious and most practical consideration, which has to be gone into. No doubt, if the trader could always prescribe the truck he wanted, he would most frequently get what he wanted.

Sir Walter Berry: It is not always possible that that can be done at little country stations.

Sir John Simon: We will call a witness about it at some stage in the Inquiry. As regards the other incidental matters, I think they can probably wait, as I have not got any special note about them. There remains just this point about owners' risk and companies' risk. I cannot help thinking there has been a little oversight about this. It is mentioned in the answers to the questionnaire which have been given by the Federation of British Industries, but I want to call attention to these matters of fact. In 1909—and I think more than one member of this Committee will remember it—there was a Board of Trade enquiry, and some recommendations were made on this very subject. I have got the book here. The reference is to Command Paper 467 of 1909. It is the Report of the Board of Trade Railway Conference. I notice that among the members of the Committee were Sir Walter Berry, E. C. Geddes, Esq., whom I take to be Sir Eric Geddes, and Mr. Martin; so that I shall be confirmed from the Committee itself in what I am about to say. I think in 1909 Mr. Lloyd George was President of the Board of Trade. There was an elaborate enquiry held, at which information was given and drafts were prepared and exchanged on the subject of the conditions proper to be attached to the owners' risk contract of carriage as contracted with the companies' risk contract of carriage. I will hand in the book in a moment. I see at page 5 of the Report you get the owners' risk rates dealt with: "The whole question of these rates has been prominently brought forward in the last few years, and has been debated in Parliament in connection with the legislation proposed in the Railways (Contracts) Bill of 1907." Then the report sets out very carefully and accurately what the owners' risk rates involved, and there is a reference to Section 7 of the Act of 1864. Then the grievances put forward on the part of the traders are carefully set out: "(1) That the companies' risk rates are not only liable for wilful misconduct, which was difficult of proof, but should also pay compensation in extreme cases in which, for example, loss or damage was occasioned by the grosser forms of negligence on the part of the company's servants; and (2) that owing to the lowness of the owners' risk rates as compared with the corresponding companies' risk rates, they are the only rates commercially possible for the ordinary trader." Then it sets out the answers of the railway companies. Then, after dealing with the two sides in that way, the Report goes on: "The Conference, after full discussion and the examination of several important witnesses on behalf of the traders and the companies, resolved under the circumstances to recommend the second alternative as a solution of the difficulty"—the two alternatives had been set out—"and finally adopted three clauses embodying a list of cases where, subject to the conditions of the note, the companies would accept liability. This, it is proposed, should be

inserted in the existing consignment notes for general goods, perishable merchandise, other than milk, carried in passenger trains, and milk respectively. At the desire of the Conference, the railway representatives consulted the companies generally, and ascertained that, with a view of settling this controversy and avoiding legislation, they were willing to embody these additions in their present consignment notes subject to any drafting amendments that might be found necessary by counsel." Then there is set out elaborately what these proposed modifications should be. That is, so far as I can see, the unanimous recommendation, and upon that those recommendations were given effect to by the railway companies of this country in a revised form of owner's risk note. I have got the forms if necessary here now. With very great respect to the Committee, by those forms we propose to stand. The Board of Trade went into this only a very few years ago, and after these forms we did, as a matter of fact, concede to the trader on the owner's risk note the class of protection which he was no doubt most properly insisting that he was entitled to, and was thought to be entitled to by this Committee a few years ago. I will just sum it up in this way. We have here a report about it. "In 1908 the subject was discussed at the Railway Conference convened by Mr. Lloyd George when President of the Board of Trade. The above arguments were repeated on behalf of the traders." Those are the arguments that the company really ought not to wash its hands of wilful misconduct and gross negligence. "The companies answered that the reduced rates at owner's risk were a concession to the trader, and the subject of a purely voluntary contract between the parties, which was almost invariably based upon considerations other than owner's risk, and that it was always open to a trader to have his goods carried, subject to conditions applicable to railway carriers, at a rate within the statutory maxima, and that these had been recently settled by the Acts of 1891 and 1892. They also pointed out that the 'gross negligence' was an expression without precise legal import."

Chairman: We have heard of that before.

Sir John Simon: There is high authority for that proposition. It is nothing else but a vituperative epithet, as one learned Judge said. "And would open the door to litigation in all cases where ordinary negligence could be alleged, and that it was impossible to find a form of words to substitute for the words 'wilful misconduct' which would be free from ambiguity and would not unfairly enlarge their risks. Finally the matter was compromised by the agreement of the companies to accept liability in certain cases (subject to certain conditions as to packing and proper addressing of parcels), except where the loss was caused by fire or accident to trains, or was proved not to have been caused by the negligence or misconduct of the company or their servants." And this is how it stands under the revised form. In the case of general goods I am excluding perishables and I am excluding milk—"non-delivery, pilferage or misdelivery." In the case of perishables: "carried on passenger trains:—non-delivery, pilferage or delay." In the case of "milk-cans (passenger trains):—non-delivery or delay. Appropriate conditions were agreed to be inserted in the consignment notes for the several classes of goods specified. These concessions were stated in the Report (page 5) of the Conference, which is an agreed document, to have been made with a view of settling this controversy and avoiding legislation." I think I have already read that passage. "The new contract notes have been in operation since the 1st January, 1910." Our submission to the Committee on that head is this. They have plenty to do, and, I gather, not too much time to do it in. There really is no justification in re-opening this question, as to what ought to be the terms on which goods are carried when they are carried on owner's risk terms or company's risk terms. The whole of that was most elaborately

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thrashed out with the assistance of two members of the present Tribunal, and the gentleman who appointed this Tribunal only nine or ten years ago. The whole arrangement then came to be stated, without contradiction, to be a compromise, in which the railway companies were trying to meet the complaints of some of the traders. Therefore, we do not propose, unless you direct us, to take part in re-opening that matter. We will do our very best in anything you direct us, but we shall wait for your direction before we join in any further discussion as to what those terms ought to be.

Mr. Martin: I do not propose to discuss this now with you, but I believe some traders are coming forward who will speak as to how the railway companies are dealing with the question of owner's risk at the present time. It is just as well to leave it till then, and then you will be able to cross-examine them.

Sir John Simon: I have no information as to that, and we should wish very much to hear anything the traders say. I only meant if it is to be treated as an abstract question, as an abstract question it was discussed very elaborately.

Mr. Martin: It is a very serious question at the present time.

Sir John Simon: If we are not carrying it out in the way it ought to be carried out, we should be very glad to hear what the traders have to say. I am sorry to have taken so long, but it is on those matters that I thought it would be convenient to state the view of those whom I represent.

Chairman: Thank you, Sir John. I think you have shortened the proceedings by having made that statement. It has been concise as well as very clear.

Sir Robert Aske: For the sake of clearness, may I raise one point? The railway companies have stated that they propose to ask that import and export rates should be specially treated, but in the middle of page 13 of the Command Paper they also deal with the rates quoted to meet water or other competition. I do not understand that that has been dealt with by the statement made by Sir John Simon, and for the sake of clearness do we understand that the railway companies still adhere to that?

Chairman: I understand that that fell under what Sir John said about exceptional rates, namely, that where exceptional rates have been brought into existence by reason of competition which had ceased, they would naturally say they should be absorbed into the tariffs.

Sir Robert Aske: Sir John Simon specially dealt with import rates, and export rates, as being on a

(Adjourned for a short time.)

Mr. Rowland Whitehead: Before you proceed with the main case, Sir, may I make an application on behalf of the St. Helens traders, with a view to getting a day fixed when their case will be taken?

Chairman: Yes.

Mr. Rowland Whitehead: In the main it is a question of principle, but you might desire to see a witness or two; and I shall certainly desire to have the responsible people here.

Chairman: We are taking the Associated British Chambers of Commerce next; then the Chamber of Shipping of the United Kingdom; then, I think, the Mansion House Association; then, Mines; then, I think, your clients, iron and steel, and St. Helens.

Mr. Rowland Whitehead: If you please, Sir, May

special basis, and I did not understand whether water competition would come under the same class.

Sir John Simon: We shall state our view about it a little later.

Mr. Head: Might I raise one point with regard to the company's risk and owner's risk questions? I do not know whether it is material to this part of the Inquiry, but so far as the Livestock Traders are concerned—this is in reference to what you suggested on Thursday with regard to the fact that possibly some suggestion might be made as to amending the existing Acts of Parliament in connection with these matters—they do propose to urge, so far as Section 7 of the Railway and Canal Traffic Act is concerned, that the limit of £15 a head for neat cattle and £2 per head for sheep or pigs should be extended so that the company's limit of liability, when no declaration is made as to the value of the animal, should be as high as £45 per head in the case of neat cattle and £7 in the case of sheep or pigs.

Chairman: You put that forward on behalf of your clients presently, and it will be a thing which the railway companies in their final answer will have to deal with.

Mr. Head: I thought I ought to give notice of that.

Chairman: We were not concluding anybody in any way. We were trying to find how far we are in agreement already, as that may shorten the evidence.

Mr. Head: If you please.

Chairman: Do you wish to call any more evidence, Mr. Balfour Browne?

Mr. Balfour Browne: I have considered the matter very carefully, and what you have said in the letter with regard to the methods which you propose to adopt as regards procedure, pointing out that on the first matter you were inquiring into it, was not a matter on which there were serious differences as to the facts, and I feel that I do not think it will be necessary to call any further witnesses before you. I have an immense number of them, but many of them would merely repeat the arguments or evidence that have been given, and therefore I now propose to close my case.

Chairman: If you please.

Mr. Balfour Browne: I am much obliged to Sir John Simon for the statement he has made. Now we do know where we differ, and that we differ on several points I need scarcely say.

Sir John Simon: And we agree on some.

Mr. Balfour Browne: Yes.

Chairman: I think it would be convenient if the Associated British Chambers of Commerce would open their case after the adjournment.

I take it in this way—I think that would take up the whole of this week?

Chairman: I should think so.

Mr. Rowland Whitehead: So that my witnesses would not be wanted until the next week you sit. I do not know when that will be.

Chairman: I think that probably will be so, but I cannot tell how long people will be.

Mr. Rowland Whitehead: Will you leave it to us to exercise our discretion?

Chairman: Yes.

Mr. Rowland Whitehead: I think it will mean that they will not be wanted this week. I am obliged to you, Sir.

MR. CHARLES EDWIN MUSGRAVE, called.

1221. *Chairman:* I think you will be in a position to make a statement on behalf of the Association of British Chambers of Commerce, upon the general principles?—I should like to do so. Before I pass to the specific points in the proof, there are some introductory statements I would like to make. Mr. Balfour Browne called attention to the importance of the interests repre-

sented by the Federation of British Industries, and that is on the Notes. I would like to inform the Committee that the Association of British Chambers of Commerce is also a very large body indeed; it consists of 120 Chambers of Commerce situate in the principal centres of the country. The Association is not confined to any one class of the business community, but represents not only manu-

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[Continued.]

facturers—many of whom are members of the Federation of British Industries as well as of our own body—but merchants and traders of all kinds. The Association has existed for the past 60 years, and in past inquiries the Chambers of Commerce have always appeared either separately or they have appeared very frequently in conjunction with the Mansion House Association on railway rates. The membership of the Federation of British Industries has been mentioned to you, and I should like to say that the membership of the Chambers of Commerce is 45,000—that is, apart from the membership of a number of trade associations which are affiliated with the Chambers of Commerce. Therefore, in point of variety at all events, the interests which are represented by the Chambers of Commerce would comprise a very large body of traders who are very seriously concerned in the inquiry which this Committee is undertaking. Having said that, I should like to express on behalf of the Chambers of Commerce their satisfaction with what was foreshadowed in your opening statement, and particularly your view as an independent person of the desirability of traders and railway companies to come to some arrangement; and if there is any competition between them it will be as to who shall be most successful in achieving the result. There was a time when a certain conflict of interests existed between railway companies and traders, and I can speak with experience since 1888; but we have latterly, not only in wartime but in pre-War days, been getting very much closer together; and the very small number of cases which have gone to the Railway Commission is to my mind due to the fact that the present generation of railwaymen at all events have regarded their customers, the traders as persons who were entitled (shall we say?) to the same consideration which circumstances have caused them to give to the trade unions and the representatives of the men. I am here to express the satisfaction of the Chambers of Commerce that this is the case and also to testify that where we have been able to do so in conjunction with the railway managers there has generally been some basis of agreement; and we think we have had sufficient knowledge and experience now to be justified in strongly supporting the proposal that new machinery should be set up under which the railways and the traders with equal interests will be working together for the common good of the business community. Then I may say on behalf of the Chambers of Commerce that we were very much obliged to Sir George Boharrell for the statement he made as to the issues which were before this Committee. We think also, and the event has been proved by the speech you have heard from Sir John Simon, that, after all, there is not a great deal of difference between the view of the traders and the view of the railway companies. There may be differences of method. I think some traders will fight somewhat tenaciously for having things done on the plan which will suit them best; but we look to this Committee, which, after all, is the first exemplification we have had of the ideal tribunal, representing traders and representing railway companies, to arbitrate between us in such a way that we may accept the decision with very considerable confidence. I hope I may be forgiven for saying that, but we really have now had sufficient evidence before us, as you have had, of a desire on both sides to assist the Committee in coming to an arrangement. That brings me to the next point, which is that at the present stage the Association of Chambers of Commerce prefer to be represented by laymen—that is to say, we wish to tell our story in our own way. We are quite sure that you and your colleagues will assist in bringing out the main points; but I think we may be able to save a good deal of time on that. Then I come to the evidence which has been given by the Federation of British Industries. There, I think, the objective is the same, but in points of detail we may probably differ; and there are a number of smaller details affecting a large number of smaller traders, and a diversified class of trade, on which you may find some possible differ-

ences of opinion; because amongst the witnesses who will follow me will be men who have a practical experience of every-day conditions—that is to say, that they are constantly having to make arrangements for rates from point to point. On the other hand, I and one of my colleagues, representing a very large Chamber of Commerce, are in this position, that a number of traders come to us with reference to some conditions, or some demands made by the railway companies, and ask us to advise them as to whether they are fair or reasonable. In very many cases we are able to give them advice which puts them on the right track; in other cases, by communication with the railway companies, it is possible to get information which will guide them. But after all is said and done, what we really want to get is some understandable basis as between the railways and the traders, easily understood, which may be followed by the average business man and not the super-transport expert. That is one of our main objectives. Having said that, I am prepared now to read my proof and to elaborate it slightly as I go along. I and the witnesses of the Associated Chambers of Commerce, desire to support the replies which have been made by the Association to the inquiries of the Ministry of Transport in a letter dated 6th February, 1920, and approved by the Executive Council of the Association on 24th March, 1920. These replies, in the main, are in harmony with a report prepared thereon by representatives of the Associated Chambers; and I may say that those replies have been extensively circulated throughout the Chambers; they have been endorsed by their various representatives; and although we are bringing up only a very few witnesses, you may take it that those replies which are on record represent the considered opinions of the Chambers of Commerce. I am happy to think that they are also in harmony, in the main, with those of the Federation of British Industries. I do not think it is necessary for me to read those points or to elaborate them, but some of the witnesses who have expert knowledge of certain of the points in those questions will follow me on the subject. I hope we are right in this. We have regarded the Terms of Reference to the Committee as divisible into three parts: The past conditions, the present conditions, and possibly the future conditions. The past conditions, of course, represent the maximum statutory powers and the working rates which were in many cases, as you have been told, below the maximum, in some cases equal to the maximum. Then I want to touch separately on the working arrangements prior to 15th January, 1920; and then I take it that this Committee is considering what are to be the conditions for the future. As regards the existing maximum rates, I am of opinion that in present circumstances they should be subject, in certain cases, to reconsideration, whether they are too high or too low, and I am aware that this will involve a modification of the provisions of the Railway Rates and Charges (Confirmation) Acts of 1891 and 1892, and possibly subsequent Acts, consistently with present day requirements as regards revenue and what the traffic will reasonably bear. This, we suggest, will involve a new maxima which might be the basis of standard working rates; and the feeling amongst the Chambers is that what we want is to get standard working rates—that is to say, in building up those standard working rates I take it that consideration will be had to the old maxima, to the working conditions prior to January, 1920, and to the new conditions which are created by the present economic situation. We consider that some standard is absolutely necessary. The idea of someone going to work and framing a new tariff and a new classification is an impossibility which no trader could entertain, and no one other than, perhaps, a Professor of Economics would have evolved such a thing. We could probably build up our new system—I think I am speaking for the traders' view—with some knowledge of past experience and some competent provision of what the conditions are going to be. If this standard is created then there will be less

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question as to the justification (in the minds of traders at all events) of the railway companies for their charges; and on the other hand, the trader himself will be in a better position to ascertain his obligations and his liability in respect to a particular traffic; and he will know if he gets a quotation for a particular business and that business goes through, exactly what are the doubtful contingencies which he may have to measure; but he will also be in the position of knowing that certain principles under this standard will be fixed and immutable; and he can rely on those. I do not know whether I am making my point clear. I am arguing for the standard, and the standard will be a blend of the old maxima and the present rates with something on for the present conditions; because if we have the standard rate there has still to be some machinery for dealing with complaints or differences which may arise in regard to that. I will not make a speech on that point, but I will merely read the answer of the Association of British Chambers of Commerce on that point. "A new tribunal"—(that is supplementary to and not in substitution for the Railway Commission. I think that is very nearly common ground amongst us)—"should be established on which traders should have proper representation. It should form an inexpensive Court of Appeal in all questions of rates, rebates, claims, accommodation, facilities, etc. Local Advisory Committees should be formed on similar lines to the proposed tribunal with power to make recommendations after inquiry to the tribunal, and to give a certificate to any person interested—local authorities, associations of traders, Chambers of Commerce or Agriculture—to appear before the tribunal. In other words very similar powers to those which are given to Chambers of Commerce and other bodies of traders in connection with Private Bills before Parliament." That will be very important in particular districts, such as Birmingham or Bradford, or where there are large industries. "Local Advisory Committees should have power to deal with minor local matters and to sit for the purpose of giving advice and assistance to the tribunal for the safeguarding of any interests as to rates, fares, tolls, dues and other charges or special services." Some of the other witnesses are very anxious to develop that point, and I will not go further into it; but that is really the text of the considered report of the Associated Chambers.

1222. You differ from some of the witnesses of the Federation of British Industries in wishing to see the Railway and Canal Commission continued for proper purposes, and not swept away altogether?—I think so. I think that should be so. There are certain matters which should go to the Railway and Canal Commission.

1223. That is in accordance with what Sir John Simon advocated, and we would have to have some memorandum stating which class of case is to go to the Commission and which to go to the tribunal?—Yes, that would be. I myself have indicated that to the Royal Commission in 1914.

1224. Mr. Davis: Would you suggest that the authority set up, or the business tribunal set up, should be permeated in its character—movable about the country?—No; because there are to be Local Advisory Committees. The main tribunal, of course, would have to be in some central position, possibly in London, and would, of course, have to be very carefully adjusted.

1225. Yes. But while we are considering economy and the lessening of expense, my question was whether you always wanted to meet in London. For instance, there may be a great question involved in Scotland, or somewhere else?—Yes. I suppose there will be some system under which certain things will be. Scottish matters will be dealt with in Scotland.

1226. But you have not thought that out?—No. I think it is possible. Even with Private Bill legislation certain Scottish Bills are dealt with in Scotland.

1227. Mr. Acworth: Your phrase about the new Tribunal was that it was to be supplementary to, not in substitution for, the Railway Commission. I will

not ask you to elaborate that in detail, but does that mean that in certain cases certain questions would go direct to the Railway Commission, and certain other cases would go to the Tribunal; or does it mean that your idea of the Railway Commission is that it is a Court of Appeal from the Tribunal? I ask you only as a generality.—Of course, there will be questions of law arising, as there have been in the past. One railway company may have some grievance against another, and it goes to the Railway Commission for that.

1228. If it is mere law, there is no reason why it should not go to a new Law Court?—Perhaps not, except that the Railway Commission has been considered to be a highly trained Court, consisting of a Judge and Assessors—considered to be a specialised Tribunal.

1229. But if it is a mere question of law now between two railway companies—if they quarrel on a mere question of law—they do not go to the Railway Commission, but to the ordinary Law Courts?—It depends very much on what the question is.

1230. This is really my point. Which is in your mind, that the Railway Commission should be an Appeal Court from the Tribunal, or that the Tribunal and the Commission should be separate (so to speak), the one dealing with one class of case and the other dealing with another class of case?—I can explain it a better way. You will allow me to put it in this way. It is common knowledge in this room the sort of case which has gone to the Railway Commission in the past. One also knows that if application has been made to the railway companies to reduce a rate or to alter conditions, and the traders considers he is injuriously affected and he cannot effect an arrangement by compromise, he goes to the Railway Commission. What we think is that the sort of cases which ought to go to the Railway Commission according to the scheme of the Railway Commission, but which did not go because of the procedure and the expense, should be dealt with by a business tribunal. You have had it in evidence from the point of view of traders, at all events, that many traders are afraid to go to the Railway Commission because of the cost and because of the procedure. Their only chance is to make representations to the railway companies, to meet the managers in conference, and to come to terms if they can. A great deal of that is being done. But, supposing the railway managers are unwilling to be give way to the trader on what they like to go to a business tribunal upon which both parties are represented. In other words, the trader wants to get into the same atmosphere as that into which he has got in this room.

1231. Then where does the Railway Commission come in?—I am not a lawyer, but my opinion is that the scrapping and modifying of all these Acts of Parliament cannot be done at one stroke. Certain powers will remain. What we want is, as soon as we can, notwithstanding what is in the existing Acts which lay down certain procedure—what we want is to set up this commercial tribunal so that 75 per cent. of our grievances can be dealt with there, as laymen.

1232. May I put it in this way? Do I understand you rightly that the more that can be put on to what we will call the business tribunal the better you are pleased?—Certainly.

1233. But if there should be a residuum, which you would not attempt to define at this moment, that they do not take which the Commission have to deal with at present under statutory jurisdiction, you would like the Commission to remain with that jurisdiction?—Yes.

1234. Is that what it comes to?—Distinctly so.

1235. Mr. Jepson: Is it in your mind that the Tribunal which is suggested should be the body to fix the rates in the first instance, or should they be fixed by the railway companies and left to them to be objected to or otherwise by a trader before the Tribunal? As you said just now, I do not quite

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follow how you suggest we should blend the existing maximum rates with the existing working rates; because working rates since January are far and above the maxima of the Rates and Charges Act; so I think for all practical purposes the existing maxima have gone?—I do not mean blend, but to take into account the conditions.

1236. So far as the relationship between the companies is concerned?—Yes.

1237. Much as the Chairman did in his statement?

—Yes. You cannot scrap all the machinery at once. It should be taken into account and modified and improved.

1238. May we go by steps? We are asked to advise the Minister of Transport what is to take the place of the present temporary system?—Yes.

1239. There are various ways and means of doing that. You suggest that we should have regard to the experience of the last 50 or 60 years under which a system of rates has been built up?—Yes.

1240. Not necessarily in one particular way, but with regard to relationship. Therefore the experience of the past should be a guide for the future?—Yes.

1241. Take a simple illustration. You take pre-war rates as being reasonable; then all the companies, as a whole, have had to incur very great expense in labour and materials, and so on; and the idea of the Government was that they should be recouped that additional expense by putting on certain additions to the pre-war rates?—Yes.

1242. Do you think that is a reasonable thing to follow out? I am not saying whether the percentages or flat additions put on in January were scientific—we know they were not. The Committee would have gone further if it were practicable. But supposing some more scientific scheme for adding the necessary amount to the pre-war rates could be devised, would that be satisfactory from your point of view?—May I express it in this way? Evidence should be forthcoming, but the new tentative percentage additions are justified both as to the reasonableness and to the amount of revenue derived therefrom, and if in excess of what is proved to be necessary for actual revenue purposes, they should be subject to readjustment on a commercial basis.

1243. I assume now when we were asked to provide that £50,000,000 under the last direction of the Ministry of Transport, it was only enough to meet what was then budgeted for?—Yes.

1244. Criticism has been made as to whether the classes have been treated fairly—for instance, whether coal was not charged too little and other classes charged too much. Have you any suggestions to make in that respect as representing the Chambers of Commerce?—I have heard various suggestions from interests which have been affected that it has not been altogether a fair computation; but I have found that when they have understood that it is tentative, and that this Committee is reviewing the whole thing, and that the whole circumstances will be reviewed, they are taking it like sportsmen at present. They are putting up with it, but they do not expect it to be stereotyped.

1245. Can you give us any suggestions as to the unfairness in the operation of what has been done so that we might amend our ways in the future?—I would rather you took that from another witness who will be able to give you chapter and verse for that. But I speak from the general criticism I have heard of it. I want to add that if what has resulted is in excess of what is proved to be necessary, then it should be re-adjusted on a commercial basis. Then I want to add this, that I have frequently heard it stated by traders that the actual amount of charges on their traffic is of secondary importance to the provision of adequate facilities. It is a question of value for money; and, of course, we shall get to that when something like a scheme is before us. I take it that this Committee will prepare a scheme; and there will be still a possibility of criticising and amending it before it has any statutory weight; so that we are only at a preliminary stage.

1246. *Chairman:* You must not think we are going back too often. What we had hoped was that the railway companies and the traders, respectively, would have prepared such a scheme before we came to sit, and that is the first question the Minister put to us before he came to the questionnaire. Unfortunately it has not so resulted. But before giving any pledge we will indicate what we are doing so as to get some assistance, and the suggestions I have made have been with a view of getting that assistance, so that we shall not have to begin over again when we draw out our plan?—Your Committee have the advantage of having more data as a Committee than the traders have collectively got. When we have got your proposals and we have heard the railway companies there will probably be more data then, and we may make up our minds that what is suggested is approximately right and fair.

1247. I have thrown out a table in the hope that people will criticise it. Up to the present I have not heard that anyone has even so much as read it?—I assure you that it has been read. I am not competent to criticise it, but there are people here, who can.

1248. We do not want to prepare a scheme and then have the traders say it is perfectly impossible. We want them to tell us what is possible in order that we may not go awhter them?—We are getting clearer; we are getting to know what is in the minds of the railway companies and what is in the minds of the traders. That will enable a competent criticism of your scale. But, personally, I am not able to say whether it was right or wrong.

1249. *Mr. Jepson:* What I was leading up to was this. Assuming we have a system of rates proposed based on the pre-war rates, with not more than is necessary to cover the increased expenses of the railway companies since pre-war days, do you suggest that those rates might be fixed by the railway companies and put in the place of the existing rates from, say, a given date, perhaps good notice to be given, and then if any traders have any objections that those should be dealt with by either the local Advisory Committees of which you speak or by the tribunal that is to be set up? Or do you suggest that the tribunal should fix what is a reasonable rate in the first instance?—I think a trader would prefer that an independent authority should establish the standard rather than that we should ask the railway companies to establish the standard, and then we should have to fight them in order to bring it down to what we considered to be reasonable.

1250. Do you think it is a practicable thing for an independent tribunal to revise the whole of the existing rates of railway companies and put something in its place? Do you not think they would have enough to do to deal with objections if the railway companies have once fixed what they consider are reasonable figures?—Of course, it would take the Committee a long time, but someone has to fix the standard; and we have indicated in our figures—some of the traders have indicated—what should be the elements in creating that standard.

1251. Yes, I know. But I want to know what is in the mind of the Chambers of Commerce, and of you as Secretary of the Associated Chambers. I thought you could speak with some authoritative view for the Associated Chambers on that point?—I am not the Secretary of the Associated Chambers, but I have asked to be the first witness for the Associated Chambers.

1252. Can you give us a considered view of the Chambers of Commerce on that particular point as to whether the tribunal should fix the actual rates in the first instance, or whether they should be fixed by the railway companies and then the objections dealt with by the tribunal?—No, I do not think I can at the moment.

1253. *Mr. Davis:* You seem to indicate that the tribunal to be set up, the more power it had the better; but the Chairman's point was that, while some suggestions have been made by him, the railway companies are in this position, that they have to lay

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their cards on the table to some extent, and the Chambers of Commerce have made no suggestions at all. What we want are suggestions from all round?—Yes. I think that you are going to get, and I think those suggestions will be coming later. I do not presume to represent the whole case.

1254. *Sir Walter Berry*: Will it be possible for the traders to put forward any scheme? They do not know what the classes produce, or the tonnage, or the revenue the railway companies have?—That is so.

1255. Therefore you cannot possibly put forward a scheme until you have those figures?—That is so.

1256. But I should like to ask whether, in consideration of this question, the Chambers of Commerce have expressed any view with regard to the extension of the classes—you have A, B, and C, and 1 to 5; has there been any criticism about all the classes 1 to 5 being put together? Would it be an advantage to have those classes separated?—It is suggested by the Chambers that, if necessary, the number of classes could be increased. As it is, if you take that book there, you will find there are a great many special conditions attached to particular goods in particular classes; so that I see no objection in principle to a larger division of classes if the conditions are equal. There is just one thing which I should like to be allowed to say, because it might make my meaning clear as to why we are so keen about this business tribunal. This business tribunal will really take the place of what is known as the Conciliation Clause in the Act of 1888, under which a trader could complain to the Board of Trade, and his complaint was sent to the railway companies, and the railway companies answered it. If the answer of the railway companies was in the negative, then the Board of Trade would give the trader a certificate entitling him to go to the Railway Commission. Rather than do that, he preferred either to put up with accepting the decision, or arrange by a friendly conference for what he wanted. I think that is the point I want to put. The failure of the Conciliation Clause to secure anything like a satisfactory adjustment between the traders and the railway companies has really led up to the suggestion for this business tribunal.

1257. *Mr. Jepson*: You suggest this business tribunal should take the place of the existing machinery under the Act of 1888, and before anybody can go to the Railway Commissioners they shall go to the business tribunal and get a similar certificate?—I think so—something of that sort. You have to guard against vexatious and ignorant complaints, if I may say so. They have to be fair and reasonable in order to justify this tribunal dealing with them at all.

1258. *Mr. Acworth*: I do not know that I quite understand yet what powers you would give to that tribunal. The Board of Trade under the Conciliation Clause expressed opinions, and that is all it did?—Yes.

1259. You would cause this business tribunal to do more than express an opinion?—Yes.

1260. You would expect it to issue an order?—I would expect it to determine what was or was not a reasonable actual rate, or a reasonable set of working conditions.

1261. That would be a decision that would be binding on both parties?—Certainly.

1262. That is your view?—It should be so.

1263. Then would there be an appeal against that decision on the question of whether it was a correct decision?—Not if it were a question of rates or conditions.

1264. The tribunal is asked to fix a rate, and the railway company says the proper rate is £1, and the trader says 15s., and the tribunal, after listening to the evidence, says 17s. 6d.?—Quite so.

1265. If the tribunal says 17s. 6d. is there to be an appeal from that decision to anybody?—I do not think it has been suggested.

1266. You do not think there should be an appeal to the Commission? You would not give an appeal on

a mere question of fact like that?—I do not know. I should give an appeal to the Railway Commission on a principle of law, which might involve money considerations.

1267. We will agree there is no principle of law in whether a reasonable rate is 17s. 6d. or 17s. 8d.?—No. 1268. On that point you would make the tribunal the final authority, with power to issue an order that had to be obeyed?—Certainly. That is very much better than the present position, which is you must take what the railway company gives you.

1269. *Mr. Davis*: Notwithstanding that one side or the other might think the decision of the tribunal was *ultra vires* the Act of Parliament?—There never was a tribunal yet which succeeded in pleasing all parties. That is the risk we have got to take. I do not think I have much more to say, except I would like to read the last paragraph in my proof so get it on the notes.

Sir John Simon: Could the witness be asked to say what his view is in cases like disputes about undue preference? We had thought cases like undue preference or cases as to the legality of the charge would probably be a matter more appropriate to the Railway and Canal Commission than to the business tribunal.

Chairman: I think Mr. Musgrave said he would divide the business which was to go to the two tribunals, and that later on we might have a statement made of what would go to the one and what would go to the other. I have very great sympathy with the witness in not wishing to define offhand what would properly go to the legal tribunal and what would properly go to the business tribunal, and I think we will defer that to a later stage, and not put Mr. Musgrave under the harrow of cross-examination on that.

1270. *Sir John Simon*: I do not wish to cause Mr. Musgrave any embarrassment, inasmuch as I asked for the same indulgence myself.—Thank you. Speaking now with regard to the future, under the scheme of percentage additions and working rates and conditions in operation prior to the 20th January last, many rates and conditions of an unsatisfactory character have been stereotyped, including exceptional measures which were adopted by the railway executive under the stress of the war. I am sure that the railway companies are as anxious to get rid of the war atmosphere as we are, but there are certain conditions which were quite justified under the circumstances of the war, certain refusals of traffic, certain diversions, and a number of other things which I need not read or trouble the tribunal with, because they are attached to the reply of the Federation of British Industries, as to which the traders do complain that the war conditions have to a certain extent been stereotyped, and we are naturally waiting to get rid of those.

1271. *Mr. Martin*: If those are continued, the trader would go to the new tribunal and have it thrashed out to see whether they were reasonable or not?—Quite so.

1272. *Chairman*: After the cessation of D.O.R.A., good many will necessarily go, because the old statutory obligations to perform the services will revive?—Yes, but there are such things as refusing to take goods at a particular station, or keeping them there for several days together. It was never like that in the pre-war times.

1273. Has the company power to refuse to take goods within a reasonable time?—Their defence naturally was, it was no good taking goods to go from one station to the other station if the goods could not be received and handled at that station. Therefore we want to get into working order as soon as possible. There are a number of temporary war conditions which have been submitted to patriotically and partly, I may as well say—I do not want to put it too high—because it has not mattered very much what people have paid. The time is coming when the cost of everything has to be measured up, and value will have to be given.

1274. *Mr. Martin*: The whole of those exceptional circumstances put in force during the war are still

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being continued by the railway companies?—I believe a very large number of them are. I still hear of them, and I can only console my correspondents by telling them, "Well, this is the aftermath of war, but the Chambers of Commerce have their eye on it, and they will see what they can do to get them altered." But certainly they ought not to be stereotyped.

1275. *Chairman:* There is one point in your statement about which I should like to be clear. Mr. Marshall Stevens started an idea that it would be desirable to interpose express traffic companies who would collect goods and act as transmitters of them, making their charges to the public. He said that the amount that they were to be entitled to charge ought to be without limit, and there should be no restriction. He did say first of all that the railway companies should remain subject to the restrictions as to charges they might make at terminals, but at a later stage of the evidence he thought they might be relieved of their charges at terminals also. Is the Associated British Chambers of Commerce in favour of interposing these express companies between the public and the railways?—I do not think that point has been considered. Certainly we have not had time as Chambers of Commerce to meet in conference, other than the witnesses themselves, since that idea was started.

1276. Have you ever heard any demand for it from British traders?—Not in that form. There are carrying companies who afford certain advantages, and I take it the carrying companies will continue.

1277. It was stated in an article which appeared in the *Times* Trade Supplement on Saturday that these express companies in America usually charge the public twice the highest rate that the railway companies charge, and that they pay to the railway companies the highest rate, no inquiry being made as to what is in the parcel, so to speak. Would it be any advantage to the British public to be able to forward their goods at double the highest rate?—Not a general advantage, but it might be an advantage in exceptional cases. There might be times when the expense was immaterial, but as a general system, as representing the Chambers of Commerce, I should say my constituents would not prefer to any extent to pay double rates, unless they got more than double the consideration for it.

1278. *Mr. Martin:* Is not there another trouble? At the present time, the railway companies collect the goods and deliver the goods, and they give the trader a clean receipt for the goods. When you get two or three people intervening and collecting and delivering, is not there rather a danger of getting complications and squabbles with the railway company in the case of loss?—I should think that it would worry the query clerks of the railway companies very considerably, and certainly it would add to the troubles of the managers—I quite agree with you in that.

1279. *Mr. Jepson:* It would not add to the simplification that we are all out for now?—No, I think not.

1280. I think we may assume as a fact that there are hundreds and thousands of exceptional rates on the rate book to-day, which have been put in operation because of cheap sea transit or canal transit or road transit, or for some other reason. The reasons for that competition have ceased. Canal transit has gone by leaps and bounds higher than the cost of railway transit, and sea transit as well. You would agree, I suppose, that now the conditions, because of which these very low exceptional rates were given, have passed away those exceptional rates should be brought up to the normal basis?—Well, I think the way the other witnesses will put it will be this, that the exceptional rates will have to continue, but they should only be allowed to continue on their merits, that is to say, on being thoroughly justified.

Mr. Jepson: That is a fair answer, I think.

1281. *Chairman:* On the question of practicability it would not be possible for any tribunal to examine the rates which are said to amount to something like 50 or a 100 millions. Have you any idea as to what would be the reasonable way of bringing them to

the test?—I think the railway companies will of course quote rates, that is to begin with. If the trader accepts the rate he is happy. If he does not like the rate, and thinks it is too high, he goes to the tribunal. Undoubtedly, the railway companies can ease things very considerably if they put forward fairly reasonable rates, because we know the rates have got to be higher. The traders have similar difficulties with regard to labour and the increase of working expenses, and there will be a certain agreement between the railways and the traders up to a point. It will only be on points of disagreement.

1282. Would you then say that the existing exceptional rates should all disappear, and any trader wanting such a rate should come to the railway company and ask for one, and if he did not get what he thought fair he would come to the tribunal?—If they were all to disappear, there would be chaos.

1283. That is what I was thinking of?—But a process of gradual elimination is another matter.

1284. How are they to be gradually eliminated? Is the railway company to have the right of withdrawing such as it sees fit?—I cannot presume to suggest how the railway companies would conduct their business.

1285. The point is, how ought they to be allowed to conduct their business? I do not know whether you quite appreciate what I see is a great difficulty. I fully realise if you once sweep them all away at one fell swoop it would result in the great dislocation of trade?—Yes.

1286. Therefore that seems to be ruled out for the moment. If you do not sweep them all away I mean to see what the process of getting rid of them bit by bit is—whether it is the railway company who are to be at liberty to withdraw them, and the community would trust to their good sense not to withdraw them too rapidly—that is one way of doing it?—If this Committee gives some sort of direction on principle, a notice could be given that after a certain date certain rates would cease to operate.

1287. When you say certain rates, there are about 100,000,000. You cannot even draw up a list which will come within a reasonable space, and we do not know any form of words which would describe the particular ones we want to get rid of. We want particularly to get rid of those which are due to sea competition, but can we say a particular rate from Station A to Station B came into existence solely by reason of water competition? Other people might differ as to the facts. In the Canal Inquiry, instances were given by Mr. Rowntree, who took York as an example, where from York to Peterborough, Nottingham, and some third place, the rates were all different per ton per mile. He suggested that the reason was that to one was good water competition, to another there was poor water competition, and to another there was no water competition, with the result that he got three different rates per ton per mile, according to the various circumstances. It would be very difficult for us to know, or for anybody to say, which were water competition rates and which were not. I want to know if we can get some principle upon which the exceptional rates can be got rid of. We have the one proposal that a good many of them would be absorbed into tariff rates, but as to those that are left after that, I want some principle by which we can get rid of them. I suggest there are two alternatives; one, that the rates all be swept away, and anyone who wants them retained should be allowed to make an application for them to be restored; the other is that the railway companies should be allowed to withdraw any they pleased, subject to an appeal by anybody who was dissatisfied?—If it is a choice of evils, from the trader's point of view, I should have thought that the last alternative would probably be regarded generally as more satisfactory.

1288. It would probably be more businesslike for the railway companies in their own interest to maintain those they thought necessary?—I would not like to go further than that. You appreciate I am not a trader myself, but a representative witness, and

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MR. CHARLES EDWIN MUSGRAVE.

[Continued.]

that it is no part of my duty to assist in the deprivation of any privileges or advantages which traders generally may enjoy. That is why I am somewhat diffident on this subject.

1289. If men are confronted with having their heads cut off, you may suggest some alternative?—I might suggest a more merciful form of execution.

Mr. *Abady*: Having regard to Mr. Musgrave's statement about the proposed tribunal, would you ask him if he would kindly explain the Chambers of Commerce's answer to question No. 12, because the impression that leaves on my mind is that the Chambers of Commerce are there suggesting that the tribunal should do something which is one of the terms of reference of this present Committee. I may be wrong, but that is my impression.

Chairman: I think I can give you what the answer to that is. Those answers did not assume that the present Committee was going to sit and fix rates. The question was asked before the reference had been made to this Committee, and, therefore, I think they are justified at the time they were asked how are the rates to be fixed, in saying there shall be a tribunal, and that tribunal shall fix the rates. They do not say it should not be this particular Committee. They were thinking of the one they had mentioned in answer to the question 1b.

Mr. *Abady*: I do not wish to argue the point, except to suggest this. They say the classification shall be left to the proposed tribunal, and if the tribunal is one which is to be a business tribunal, it would follow that they think the classification should be arranged by the tribunal which is subsequently going to sit to hear appeals, as Mr. Musgrave said.

Chairman: I think you must read these answers in connection with the fact that at that time nothing had been referred to this Committee. This was a proposal in the air, so to speak?—Yes.

1290. Mr. *Abady*: Would Mr. Musgrave now say whether he thinks the business tribunal should be the tribunal to fix the classification?—I have no objection to saying, in my opinion, the question of classification is essentially the sort of question which a business tribunal should deal with, and that the business tribunal will be more competent to deal with classification than, say, the Railway Commission, because there it is a question of expert against expert. I think classification eminently is a matter for a business tribunal. That is my opinion.

1291. Mr. *Jepson*: You mean alterations in the classification?—Yes.

1292. You assume that, as matters stand, at the conclusion of the inquiries made by this Committee, there will be a classification of some sort?—Yes.

1293. It may be the existing classification, subject to certain modifications, which may be agreed during the time that this Committee is sitting?—Quite.

1294. What you mean is this. Your suggestion is, if there are any additions or alterations to that classification, that should be a matter for the business tribunal?—Certainly, I think so.

1295. Sir *Robert Aske*: Do I understand you to suggest the only reason why all the rates such as exceptional rates which have been fixed by water competition should not be swept away, is that there might be some dislocation of trade?—There are other reasons, of course. There are large vested interests and large businesses based upon the continuance and existence of exceptional rates.

1296. All these rates which have been fixed by water competition have all originated, not in order to benefit the traders, but simply to afford the railway companies means to procure traffic by carrying at lower rates. Is not that so?—Yes, and for the convenience of traders also.

1297. Speaking generally, is not it the fact that all rates which have been induced by water competition have simply been cut rates by the railway companies in order to induce traffic to their lines, and to divert it from what would otherwise have gone by sea?—Speaking more in a friendly way, it may have been so.

1298. Is there any principle that the Chambers of

Commerce can suggest on which any of these exceptional rates which have been created by water competition should be retained?—Well, I have said that the exceptional rates should be retained or should be set aside on their merits. It is a question of hearing the cases.

1299. You will admit, where they have simply come into existence as a matter of competition between the railways and sea carriage, there are no merits as regards the traders. Is not that so?

1300. Chairman: It is a question of fact on a particular rate. There may have been water competition, and there may have been other reasons as well?—That is my point.

Sir *Robert Aske*: I am founding my question on water competition.

Chairman: As to a particular place where there has been water competition, nobody can say with certainty what is the real origin of the rate. It may have been partly water competition and partly something else. That is the trouble I have always felt.

1301. Sir *Robert Aske*: I appreciate your observation. Can you suggest any principle on which any of these exceptional rates as between one port and another can be justified?—I think probably they are justified.

1302. Can you suggest to the Committee any definite principle on which they could say, "Well, any rate which comes within this principle or the other shall be retained, and all the others wiped away"?—No, I do not think I can. I have not thought that point out. I think you may get that from one of the other witnesses.

1303. Which witness?—Mr. Hughes will answer that question.

Mr. *Jepson*: Is it your suggestion that the railway companies should not be allowed to compete with water-borne traffic on fair terms, as they did in pre-war times?

Mr. *Ralfour Broune*: That is it.

Sir *Robert Aske*: The position at the present time is this: As no one knows better than you yourself, the railway companies can now carry at much less cost than sea, which is an entire reversal of the pre-war condition of affairs. The suggestion of the Shipping Industry, which they propose to submit to this Committee, is that under the existing condition of things the railways should carry on a uniform basis, whether it is inland traffic or whether it is port to port traffic, and then if the shipping industry cannot live against that state of things, it must go out of existence; it must take its chance of it. We ask that there should be no preference as between one port and another, as between a port and an inland town, or between two inland towns, but there should be one uniform basis, and that the value of the services rendered should be paid for.

Mr. *Jepson*: Do I understand that the Chamber of Shipping is suggesting that the railways should not be permitted to compete on fair terms as they did pre-war, but that some higher standard should be put in force where there is sea competition, to prevent the railway companies, because their costs are less than the costs by sea, from having that advantage?

Sir *Robert Aske*: The suggestion of the Chamber of Shipping is that the railway companies should not be allowed to use an advantage which they have by having diverse traffic, some inland and some port to port traffic, to drive out of the market one of the branches of transport upon which this country is absolutely dependent, by cutting rates. They should not be allowed to close canals; they should not be allowed to drive the coasters out of the British trade and compel them to carry on foreign trade by reason of the peculiar position in which the railway companies are now placed.

Chairman: You will explain that to us presently. You were answering Mr. Jepson, and I am not saying that you said one word more than you ought to.

Sir *Robert Aske*: I desired to make our position clear.

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MR. JAMES JOHN HUGHES.

[Continued.]

MR. JAMES JOHN HUGHES, Called.

1304. *Chairman*: I think you are Traffic Manager of Messrs. Peak, Freen & Co.?—I am.

1305. You are a member of the Association of British Chambers of Commerce?—I am.

1306. You have given consideration to these matters which are now before the Committee?—Yes.

1307. Would you tell us what your views are? We understand, practically speaking, that each witness supports in general the propositions laid down by the Association of British Chambers of Commerce in their printed Memorandum; but we are wanting from the witnesses their reasoned views why they do so on the matters which they consider most important?—I should like to say this. In one or two places I have corrected my proof, so that it will be a little different from what it was. I am in agreement with the replies of the Association of British Chambers of Commerce to the questions of the Minister of Transport in his letter of the 6th February, 1920. It has always been felt by the traders that some inexpensive Court of Appeal or Tribunal should be available in cases of grievance or dispute in connection with rates or other matters connected with transport, and I am strongly of opinion that such a committee or tribunal should be appointed by the Ministry of Transport, of a business character, from panels representing the railway companies and the traders respectively, supported by local advisory committees, to whom application should be made for advice in reference to the retention of conditions or the variation of rates, or the issue of exceptional rates to meet exceptional circumstances. The Board of Trade Inquiry of 1893 dealt exhaustively with the whole question of the basis of railway rates, and I see no reason for any alteration of the principles there set out. It seems to me that in the present or in any future Inquiry, the first consideration should be the extent of the loss the railway companies make owing to the altered conditions of labour and increase of wages, together with other increased costs, in relation to the existing rates and charges; and then the basis of rates should be on the standard working rate or existing class rates, that is, the class rates in existence prior to the percentage increase on the 15th January, 1920, for conveyance only. It seems to me, in connection with that, that the railway companies should give proof of actual deficit, and not make demands for increased rates without giving the full facts. It should be open to some tribunal or body to know what the actual increase constitutes. I believe in the recent increase in 1920, on one occasion, £50,000,000 was asked for, on another occasion £45,000,000 was mentioned, and I believe on another occasion £100,000,000 was mentioned. When the amount was fixed it was £50,000,000. I do not think any details were ever given of that £50,000,000 as to how it was made up.

1308. There was printed a White Paper showing how the £45,000,000 was made up. Then there was an additional concession made by the railway companies in reference to wages, which it was estimated would cost a further £5,000,000. I have been told that it is working out approximately correctly, but it will take a longer time than has yet passed to know what the result will be?—My point there only is that in any future variations it should be very clear what the increase actually consists of. In connection with this fixing of the rates, there may be two schools of thought. One is that there should be fixed maxima and working rates with a margin between which variations should be made. In that connection it seems to me that the fixed maxima would have to be so very high to allow for future developments that there would not be very much value in that. As I understand the Act of 1919, the Minister could increase any maxima, and therefore, from the trader's point of view, I do not quite see the point of the maxima; but if we had standard working rates which could be varied on the instructions of the tribunal, provided always that the railway companies fully

justified any variations, it would allow for depreciation or decrease in the rate, because, as I understand the arrangement, the Ministry of Transport's Conciliation Board, or some other body, would be arranged that a rise or fall in wages would be treated as the cost of manufacture. It could easily be ascertained that there was a decrease, and automatically the tribunal, or somebody could arrange for a decrease in the rate. So that I personally—I do not know whether all the Chambers of Commerce would agree with that—would rather favour a standard working rate, with a variation up and down, on satisfactory evidence being given, because I cannot see otherwise how you are going to fix the maxima with any benefit, as the fixed maxima would not be of much use if the Minister has power under the Act of Parliament to impose certain increases. In this connection, it seems to me, it would be interesting to know whether the railway companies can give reliable statistics to show the ratio of exceptionally rated traffic to that charged at class rates, because if it is as stated, that the greater part of the traffic to-day is carried at exceptional rates, and many of them are anomalous, I suggest that the percentage increase put into force on the 15th January, 1920, should be equivalent to all traffic charged at the existing class rates. By this method we think it is possible that part of the increase of revenue required would be made up from traffic carried at present under exceptional rates, if that course were possible. In any case, I would strongly urge that the basis of the rate, when this revision comes up, should be on the existing working class rates on station to station conditions. I emphasise that point. The aforesaid committee or tribunal would then have power to consider the revision or issue of exceptional rates.

1309. Would you sweep away all existing exceptional rates in the interval?—Provided the tribunal had power to issue or retain exceptional rates in force. In this connection, it does seem to me that all classes of industry in this country should bear a proper share of any increase. One portion of industry should not be prejudiced to the prejudice or preference of another. There are certain key industries, we know, for which special rates could be made, and special tariffs for exceptional lists as laid down in the classification. We as traders realise all the difficulties, but would prefer some system of this sort to the existing inequalities. In the business that I represent we have 1,500 exceptional rates. I notice Mr. Pike, in his list of exceptional rates, has not shown my commodity. I would like to keep my 1,500 exceptional rates. I would like to keep the lowest possible rates, but I realise we have to pay something more, and I would rather pay it on a properly laid down Schedule than I would be subject to 40 or 50 or 60 variations on existing rates, exceptional or ordinary. I should know where I was working then. The railway rate clerks have built up exceptional rates in the past in a haphazard manner, not always realising quite where it was leading to.

1310. *Mr. Jepson*: Before you leave the question of rates, may I ask you to explain something, because I am not clear what you mean by it, on the point of existing percentages and Working Class Rates. Is the suggestion that if the existing percentages on the class rates and on the exceptional rates were all done away with, and then that the exceptional rates were done away with, and everything was fixed at the class rates, that would bring in sufficient revenue? Is that your suggestion?—Not sufficient, as I said part of the increased revenue required. I have altered my proof.

1311. Where would you get the other from?—You would have to increase your standard working rate.

1312. Do you think it a practical suggestion to do away with exceptional rates on such things as might be subject to tariffs in the future and put them all under the Working Class Rates?—Certainly not. I agree with special tariffs for exceptional classes on application to the tribunal.

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MR. JAMES JOHN HUGHES.

[Continued.]

1313. You mean what we are calling exceptional rates should be done away with?—I do.

1314. You are in the biscuit trade?—Yes.

1315. It has been the practice of the railway companies to give Peak Frean's exceptional rates to Ireland to compete with Jacobs, and to Scotland to compete with Carr's, and to give those people in Scotland and Ireland exceptional rates to get down to London to compete with other firms?—Exactly.

1316. Do you suggest all those exceptional rates should be done away with, which would mean all these biscuit manufacturers would be confined to a certain area around about their works, as they would find the railway rates at the ordinary rates would be too high to enable them to compete with firms in other places?—If they were treated fairly and the increased revenue required was spread all over the community on every industry, it would be up to the biscuit people to complain if they paid more than their fair share, and it would always be open for me to go to the tribunal and ask them to put the biscuit trade in grocery class No. 2. If I could go to the tribunal and convince them I was being unfairly treated, they could put me in grocery class No. 2.

1317. That is bringing in the exceptional rate again?—Yes, in the tariff.

1318. Mr. Acworth: Dealing with the point Mr. Jepson raises, say the rate for 50 miles is four times the rate for 200 miles to-day, I am suggesting that might be the scale. What is your view, that the rate should decrease rapidly so as to encourage long distance traffic, or is it fair that it should increase in proportion to the mileage? Have you formed any view on that point?—I have not.

1319. When you speak of 1,500 rates I take it that means that there are at least 1,500 rates to your knowledge in your particular commodity in the rate books of the various companies that are likely to be of use to you?—Yes.

1320. There may be another 1,500 rates from Aberdeen which do not help you, but you know of 1,500 that concern your daily business from London. I just want an idea of the number and you can get at it in that way?—Yes. It may be suggested that conditions in the transport world may alter from time to time so much as to make it impossible to fix maxima, but on the other hand conditions may improve, and my suggestion to fix the basis on the standard working rate will give scope for variation of the rates by the Minister of Transport upon the recommendation of the Official Committee. With regard to the variation if a standard working rate was adopted I do think that no variation on the part of the railway companies should be made without some proper appeal to the tribunal.

1321. Chairman: You heard what Sir John Simon said this morning, suggesting the adoption of the American principle, that the railway company should bring an increase into force, there being a right of appeal and there being a right of the tribunal to say that pending the appeal, or a certain period limited in days, 120 days, whatever might be fixed, the rate should not come into force. Does that appear to you a reasonable suggestion?—I should prefer that it was not permanent.

1322. It is obviously better for the trader that there should be no increase until the tribunal has spoken?—Quite so.

1323. Having regard to such a danger as a certain increase of cost which five years ago one would have thought incredible to-day, an every-day affair, would it be fair to the railway company that they should put up their rates without waiting, subject to an appeal, and, if necessary, to an account being kept if so ordered?—Would not it be up to the railway company to recover from the firm if they justified their increase?

1324. If the increase came into force immediately, on notice being given, the money would, of course, be payable. If it is not to come into force until the tribunal has decided it, there might be an interval of some months, and if there were a large

number of increases the same day, the tribunal might not be able to give its decision for a long time?—In that case, they would prefer to hold me money to me holding it myself. I would prefer that the tribunal gave their decision first.

1325. That is not a case of your holding their money?—No, they are holding my money.

1326. You keep your money permanently if the decision is in your favour?

1327. Mr. Jepson: Do you consider that a practicable suggestion that no increase should come into force until it had been justified before the tribunal, and if justified that it should have retrospective action to the date from which the railway company had to incur the expense. It is a thing unheard of?—It may be unheard of, but I do not think it is unreasonable.

1328. Mr. Acworth: Let them collect it afterwards?—They could from my firm.

1329. Do you think they could from others?—I do not press that point; I think that if it is strictly laid down it would be recoverable, but I would not press that point.

1330. Mr. Davis: If you paid wages to a working man subject to an award and you paid him too much did you ever get it back?—I do not know, I do not deal with wages.

1331. Mr. Martin: May there be any delay with such a tribunal as this?—I do not see why there should be.

1332. It would not be fixed days once a month but called together whenever required?—Yes.

1333. And dealt with very promptly?—Yes.

1334. And even issue a temporary increase or something of the kind if they thought necessary, and if there was going to be any delay?—Yes, but could not some arrangement be made whereby if an increase of rate came into force owing to conditions of labour, or some other factor, so that it would be possible for the trader to pay a percentage of the increase subject to the appeal and the decision. I do not follow why the railway companies should not be prepared to wait.

1335. The railway companies would have got all their figures together, and if there was an increase of say 10s. a week there is no reason why the railway company could not put forward within a week the suggestion of an increase on the basis of which they have already got their rates. It would mean no delay of any consequence?—I do not follow you. Do you mean there is no reason why railway companies should not justify their increase before the tribunal within a week?

1336. Yes?—I agree with you.

1337. Mr. Davis: Supposing that the tribunal when set up came to the conclusion that a 10 million increase for wages on the railway system as a whole meant 2½ or 2 per cent., would you then agree that that might be such a sum that the railway companies might fix subject to the final approval of such a tribunal?—Yes, I agreed to that before. It is only a question of when we should pay.

1338. Mr. Acworth: I can understand a percentage increase working, say one per cent. of the total goods traffic at present is £1,000,000, supposing an individual company needs a few hundred thousand pounds, or something of that kind. You could do it as a percentage on all traffic, but it would be very inconvenient to put a half per cent. on a bill for 1s. 9d. Would not you have in fact to put increases, unless they were sweeping, on to particular commodities or particular rates?—But the scales, I take it, are based on an increase that can be gauged on percentage and you would spread it over that percentage.

1339. Suppose the scales are all fixed and the new method is working and a railway company wants a moderate sum of money, a percentage of one or two per cent. on the little retail bills would be difficult?—I agree.

1340. You would not need to put your increase as a percentage over every scale, but as a larger percentage on certain things?—Yes.

1341. It is not a question of justifying getting an increase from everything all round, which is a single

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[Continued.]

enquiry; it is a question of particular things. In that case if they put it on boots do not you think the boot people would be inclined to say, put it on biscuits?—I am sure they would.

1342. Then you would not have a single inquiry, but a very complicated inquiry, each particular person saying, put it somewhere else?—Yes.

1343. Are you sure that could be got through very quickly?—I do not know. I cannot make a suggestion on that point.

1344. Does it not strike you that it is a complicated process?—Yes.

1345. If you are to put particular increases it is a much more slow process than if you are to justify a percentage overhead?—Yes.

Mr. Martin: Are not we getting rather into details of what the tribunal will have to do? It will have to work out its own salvation.

1346. Mr. Awerth: I want to see if he does not agree that there is a difficulty in getting the thing through promptly?—There is a difficulty, but I think it could be got through promptly.

1347. Chairman: There everybody agrees. The point raised by Sir John is that there is an American system he would like to see introduced where a rate is put into operation off-hand, unless the tribunal directs that it should not be. There would be still an opportunity for traders to say that the railway companies are making an excessive demand, so excessive that they ought not to be allowed to put it in before the hearing. I rather wanted to know whether you had any comment to make on that; it is a new matter we have not had discussed before to-day, and I think you would be justified in saying that you would like some time to think about it?—I would. I think Sir George Beharrell and Sir John Simon spoke this morning in connection with the cumulative principle and basing the cumulative principle by taking all companies' distances continuously. That is a point we discussed, and are strongly in favour of, and we were very pleased when Sir George Beharrell indicated that he was in agreement with it, and we were so sorry this morning when there was some doubt cast on the fact of it being brought into operation. It is in my proof that we are in favour of the continuous mileage on the cumulative principle. We have considered the extra cost of conveyance of short distance traffic, and I would suggest that it may be necessary to charge a greater proportion for the first 5, 10 or 15 miles respectively, than to charge for the first 20 miles at a level rate plus additions. With regard to a preferential rate for larger quantities, I am of opinion that a percentage decrease in the rate should be given for consignments of two, four and six tons, and for truckloads, and the "smalls" scale should continue for the charging of consignments up to 3 cwt., as hitherto. We feel that where there are rates for quantities, we are helping to fill the railway trucks. The railway companies ask us to fill trucks, and to work in the direction of full loads, and we think it a hardship if we concentrate and accumulate traffic, and then find a proportion will go into a truck, and the remainder is charged at a higher rate because it will not fill another truck. I would advocate the retention of the "lots" rates. Then the station and service terminals.

1348. Mr. Jepson: Will you tell us your experience with regard to these consignment rates, special rates for large consignments, if you have them in the biscuit trade. Have you special rates for truck loads?—Yes.

1349. What are your truck loads?—Four, six and ten tons; there are eight ton lots in several places.

1350. Mr. Davis: Suppose you send a 1½-ton truck, you would have to pay more for the half-truck if they charge you less for the half-truck?—We get a rate for a stated quantity, say 4 tons. I would like to say that I am not speaking on my own account in regard to these lots rates, I am speaking more for the Chambers.

I have no difficulty; if we get a 2 or 4 ton lot it goes into a truck and I find a truck; I have no difficulty; but some traders get a difficulty, because when they exceed the truckload and get into a small proportion, although sending 8 or 9 tons, they do not get the advantage unless it goes in it equally.

1351. Suppose you are sending a wagon load of biscuits from your factory, and you have an order for 1½-ton wagon load and you send the half-load in another, that costs more?—No, one rate per ton if there is not an exceptional rate.

1352. I mean the wagon on the road?—It costs more for the half-wagon. I thought you were talking about the rail.

1353. Mr. Jepson: Your biscuit traffic is mainly cartage?—Yes.

1354. Not sent in truckloads?—No, we have no sidings.

1355. It is cartage to the companies' station. If you get a 2-ton lot and a rate for a 4 or 6 ton lot, and it is carted into the railway station, and the railway company load 2 tons in another truck with other goods for the same destination, they make up the load?—Yes; sometimes they load and sometimes we load. With regard to the station and service terminals, we think they should be based on reasonable terms per ton, which would be dependent upon local conditions, and such terminals should be clearly stated in the beginning of the rate books to be kept on every station, and all distances should also be shown in the rate books. I was glad to hear the other day that Sir George Beharrell said there might be four classes of stations, so that that could be fixed and the station terminals clearly laid out, and there would be no difficulty in connection with rebates of C and D rates. I understood this morning there may be some difficulty about that.

1356. How do you suggest that station and service terminals should be based on reasonable terms per ton? This is in disintegrating a rate in the rate book?—Yes.

1357. One can understand that with regard to a class rate which approximates to the maximum, but how do you deal with the exceptional rates which are clearly below, in many cases very much below, maximum powers. You would have two different figures here?—Yes.

1358. And varying figures according to the amount the exceptional rate was below the class rate?—Yes.

1359. How do you make that correspond with what you say, that station and service terminals should be based on reasonable terms per ton which would be dependent upon local conditions?—This is the old vexed question of disintegrating an exceptional rate. You and I know the difficulty of it. I want some method, and I do not know how you are going to do it. You built up your rates and now you say you cannot dissect them. As a trader, I think it unfair, if I have an exceptional rate for an exceptional quantity, when I want a disintegration for rebate purposes, that I am told there is nothing in it for the services and that something near maximum conveyance is charged and swallows it all up, and there is nothing for terminals. You come back to the old Pidcock system.

1360. I am taking what you said here. Assume an exceptional rate for biscuits and a class rate. Presumably, the cost is the same as regards structural accommodation and handling; therefore, it is to be on reasonable cost. You would expect the same amount for station and service terminals on an exceptional rate as on a class rate?—Would that be so, necessarily?

1361. I want to know?—I think you would get a proportionate decrease on the service as you do on the conveyance.

1362. That would be that it should be based upon reasonable terms per ton which would be dependent upon local conditions. It would not be upon cost?—No. I have C and D rates, we cart our own traffic and load our own traffic, but we do not get a rebate for loading. I want it set out so that I can say to

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[Continued.]

the station, "My rate is so much for conveyance, so much for loading, so much for covering, and so much for station; I have done certain of the work and I am not going to pay for that." I think that is fair.

1365. *Mr. Martin*: Have you a private siding?—No. This point touches on rebates and I have mentioned rebates which have been the cause of much dispute and litigation and I urge consideration for the rates to be quoted in every case upon "Conveyance" conditions only, and all other charges for terminal and delivery services should be quoted separately in the rate books. If this suggestion be adopted difficulties and disputes in connection with rebates would be immediately disposed of. In connection with C. and D. rates again, I think I can best illustrate the difficulty of the trader in regard to rebates by mentioning your recent increase on the 15th January this year. The rates were increased in classes 1 to 5 by 60 per cent. or 100 per cent. in the case of "smalls." Directly that was done the people who carted their traffic like ourselves were only allowed the old rebate, plus 1s. 6d.; that was the cartage increase, nothing of the 60 per cent. We made application, and now after some delay two months probably, we are allowed the rebate in accordance with your recommendation. It is not necessary to read it, a rebate shall be equitably readjusted in accordance with the increase. They have only given us the increased rebate of 60 per cent., plus 1s. 6d., on the traffic over three hundred weight. Now we come to the smalls, they say, "We will give you rebate on the smalls the same as the bulk." I say, "No." They say, "We have decided that." I say, "But you have no power to decide that." As I understand the smalls, there is something more than the actual charge according to the calculation of the tonnage rate. One cwt. at 20s. is 1s., plus 3d. for the small scale, 1s. 3d. and that has been doubled, 2s. 6d. So that there is 25 per cent. for the calculation of 1 cwt., therefore I am entitled to rebate at the actual calculation, plus 25 per cent. They say, "All you are going to have is 60 per cent., plus 1s. 6d. and the old rebate, or, rather, 60 per cent. of the old rebate, plus 1s. 6d." In the ordinary way it would be 8s. 4d., but they are giving 8s. 2d., and I want 8s. 4d., plus 25 per cent. I mention this to show how necessary it is for people who are charged C and D rates, according to their traffic, to have these rates clearly shown, so that they need only pay for what they do.

1364. *Chairman*: Or rather for what is done for them?—Exactly.

1365. *Mr. Jepson*: The suggestion is that all these rates should be free of cartage element in future, and the cartage shall be charged quite separately, so that you will not have to go through the trouble of these cartage rebates in future?—No. Private sidings should be dealt with distinctly as private sidings, and should reap the advantage of not incurring terminal charges, except for any services rendered in putting trucks into the siding. This is not done at present, and I think this is a point the tribunal might settle. *Mr. Martin* asked me just now if my traffic was dealt with at a private siding. It is not, but I had negotiations with the railway company some time ago to put into our works in the country a private siding. That fell through because of this question, that we could not come to any arrangement in connection with services and the rebates. It ought to be very clear, I think, that where only certain services are rendered, only certain charges should be made.

1366. *Mr. Martin*: At the present time the railway companies make the best bargain they can with you?—Exactly. It is not clear to me whether it is intended in the initial enquiry to deal with conditions—I was going on about company's and owner's risk-consignment notes. We mentioned that this morning.

1367. *Chairman*: What is your experience about that? Have the companies accepted the 1909 Owner's Risk and Company's Risk, or added new ones?—I think they are adding new clauses now with Owner's

Risk. We have never been able to get a proper definition. In the 1909 clauses the question of loss is shown as actual money loss, but it has never been clearly defined to me whether the railway companies wish to escape liability for loss of the goods, that is non-fulfilment of their contract of carriage. If I send goods at owner's risk and pay cartage it does not matter to my mind, I may be wrong, whether I pay full or half rate and pay for the goods to be carried. They may be in a battered condition at the other end, but I think I am entitled to the conveyance. If they lose my goods, they claim to be exempted from any liability under the Owner's Risk.

Chairman: I have not the clause before me; I do not know the effect of the clause in 1909.

1368. *Sir John Simon*: I think upon that point there must be some misunderstanding. I have the ordinary form here and I believe it is the same with every railway company. This is the Owner's Risk Rate, not perishable, it is the ordinary risk note:

"Nothing in this agreement shall exempt the Company from any liability they might otherwise incur in the following cases of non-delivery, pilferage or misdelivery; that is to say, (1) Non-delivery of any package or consignment fully and properly addressed unless such non-delivery is due to accidents to trains or vessels or to fire?"—Does that refer to passenger train traffic as well?

1369. The one I am reading would be a goods train form. Is your reference to goods carried by passenger train?—I was speaking of both. When I took part in the Conference at the Board of Trade some time ago, the Railway Companies' representative stated then that they would exempt themselves from liability for the loss of the goods, non-delivery, or non-fulfilment of contract.

Chairman: Here is a Clause in this one, "I agree to relieve the London and North-Western Railway from all liability for loss or injury to the same excepting upon proof that such loss or injury arose from wilful misconduct." I take it under that if goods were not delivered the railway company would be able to say, "Until you show that the non-delivery was due to the wilful misconduct of my servants you cannot sue me."

Sir John Simon: It is not the copy. Before you go on with another sentence—

Chairman: "This agreement shall be deemed to be separately made with all public persons?"

Sir John Simon: You have a different form.

Chairman: This is called consignment note for damageable goods when not properly protected by packing.

Sir John Simon: That is damageable goods. I am talking about the ordinary consignment note for goods to be carried at owner's risk. My understanding is most distinctly that that is a well-known form of contract and has contained, ever since the Board of Trade Conference, the stipulation "Nothing in the agreement shall exempt the company from any liability they might otherwise incur in the following case," and (1) is non-delivery. What has been put before the Chairman, no doubt by some misapprehension, is a consignment note referring to damageable goods when not properly protected by packing which is wholly different. I will hand it up. I think you will see on that Midland Railway form there is what I said, "Nothing in the aforesaid condition shall exempt the Company from any liability they might otherwise incur in the following cases of non-delivery, pilferage or misdelivery, that is to say: (1) Non-delivery of any package or consignment fully and properly addressed unless such non-delivery is due to accidents to trains or vessels or fire." Of course, owner's risk is a big qualification.

Mr. Jepson: Those are the words agreed at the Board of Trade Conference.

Sir John Simon: Yes, a wholly different thing was handed up just now. It was a consignment note for damageable goods not properly protected by packing. It is a consignment in respect to goods the railway company is under no obligation to carry

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whatever. A railway company is entitled to say, "Take those goods away and pack them properly," and no one can blame them.

Mr. Balfour Browne: There is another Clause you have not read: "Provided that the company shall not be liable in the said cases of non-delivery, pilferage or misdelivery on proof that the same has not been caused by negligence or misconduct on the part of the company or their servants."

Chairman: That is shifting the onus. That is very important.

Sir John Simon: I am taking the onus there, I am not throwing it on the trader.

Mr. Waller: Railway companies refuse claims daily on those grounds.

Sir John Simon: I do not know who is speaking, but whoever it is, let me recommend him to take it into the County Court and see what happens to the railway company. This is a plain contract and what the Board of Trade and the railway companies and the traders agreed together.

Mr. Acworth: We have seen in the newspapers for years past complaints by the traders that, in fact, the railway company takes no risk and no liability except for wilful misconduct of the railway servants. Are those statements made under a misapprehension of the fact? Do some companies not adopt this? What is the explanation?

Sir John Simon: I am anxious to get to the bottom of it, but my clear understanding is that since the Board of Trade Conference all the railway companies involved in the clearing house have adopted for the ordinary case of good, properly packed goods, that are carried at owner's risk, the modifications which were agreed to with the Board of Trade.

Mr. Acworth: It looks simple, but the fact remains. You would have thought, if that had been a standard for ten years, it must have got into people's heads, but you see the same complaint, that they are refusing to accept any liability except where the trader can prove affirmatively gross misconduct. There is some explanation.

Sir John Simon: I should like to be informed. I am not anxious to assert anything that is not so.

Mr. Acworth: I do not say it is so, but I say it is persistently asserted, and how it can be in face of that, if that is the whole story, is a puzzle to me.

Sir John Simon: People do not understand, if they send on damageable goods—

Mr. Acworth: That is a rare case; a very small proportion of the whole.

Mr. Balfour Browne: This is not damageable goods. It is the ordinary consignment note, and it exempts the railway company unless the trader can prove negligence or misconduct on the part of the company.

Chairman: That is not the one before me. Let me see it?

Mr. Balfour Browne: That is the Midland Railway. *Chairman:* I have the Midland Railway, and it is in totally different terms.

Sir John Simon: I think there is some mistake about this. No, what he has been reading is identically the same as the thing I have been reading. The proviso to which my learned friend appears to be referring throws on the railway company the burden of proving what is complained of is something that has happened notwithstanding their own care.

Chairman: According to this the railway company is absolved if it affirmatively proves that the loss or misdelivery was not caused by its negligence or misconduct, but if there is no proof given by either side the company pays—that is to say, if taken to the County Court. Whether it is in fact, I do not know.

Sir John Simon: It ought to pay.

1370. *Mr. Martin:* There have been cases reported two or three times where the goods have not been delivered, where the goods were accepted and not delivered to their destination and the railway company has been held not responsible. Is not that so?—Yes.

Mr. Balfour Browne: I remember about three cases the last few months where it has been pointed out as to the owners' risk that the goods have not been damaged, not been lost through negligence of any cause, but simply not delivered, no explanation given, the goods have not arrived, yet the railway companies were held not to be liable.

Sir John Simon: I do not want to make a statement about it, I am not sure that I would like to say. Some of these things are reported, but I am certain about this, if my instructions are correct, that the railway companies have put into force the very terms of the owners' risk note which were agreed by way of compromise at the Board of Trade a few years back. How it is worked out is a thing I do not know.

Mr. Martin: It is the working out of this the traders are complaining about, that they legally do so by some means, and the judgment also goes to the railway company.

Sir John Simon: It is nothing to do with me. I have offered no assistance and know nothing about it.

Mr. Acworth: Will you ascertain whether there is any other owners' risk consignment note in a different form except the one we have already seen which refers to badly-packed goods?

Sir John Simon: Yes.

Mr. Acworth: You see what I mean, there is possibly another.

Sir John Simon: I think there are three. There is the perishable traffic goods. There are three, one a perishable one; the pink one you have before you, the green one is goods not properly protected.

Mr. Acworth: Then there is a perishable one.

Sir John Simon: I think so.

Mr. Acworth: Is that all. Can you exhaust it?

Mr. Jepson: There are many others, some for passenger goods as well.

Sir John Simon: I think Mr. Acworth wishes to know this. Putting aside the special cases whether it is dangerous or perishable goods, or non-packed goods, there is more than one standard form of conditions for ordinary owners' risk traffic.

Mr. Acworth: That is what I want.

1371. *Chairman:* Can you come across any particular instance and let us have it to-morrow?—A claim where they have refused me?

1372. Yes?—No, I am speaking for the Chamber now.

Sir John Simon: I can add this now while on the subject. I am told by some of the gentlemen helping me that you will find there is a form of consignment note for goods carried at owners' risk when the goods are carried by passenger train, although you have no obligation to carry by passenger train. We are obliged to carry perishables by passenger train. There is that instance, perhaps that is what Mr. Hughes had in mind. There the conditions are more stringent. Anybody who sends goods in the ordinary way by ordinary goods train, which are properly packed, and he wants to send them at owners' risk, according to my instructions will send them on the form you have before you.

Mr. Acworth: This last point is really an exception. This is a case where you make a contract that you may lose the things.

Sir John Simon: I do not doubt the terms of it. It is a suitable contract no doubt.

Mr. Balfour Browne: In answer to that we have promised, and at the right time I will bring up, clauses showing what we want with regard to owners' risk and companies' risk. We do not accept the position that we are bound by the Conference of 1909. We do not agree with it. We entirely differ from it. My learned friend has treated it as if it were the law. It is true it is put in their consignment note, and I have to sign it as trader, but I do not accept it, and I will submit another clause to meet the case.

1373. *Chairman:* Yes, Mr. Hughes?—I am in favour of alternative rates always being quoted where

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there is an element of risk, and the trader should have the option of consigning by either service, with reasonable difference in the rates when the owner takes the risk. That brings me to the point of goods not properly protected by packing, carried only at owners' risk, and charged always at company's risk. We think if the goods are carried entirely at owners' risk there should be some corresponding reduction in the charge. There are a number of conditions on the ordinary consignment note that are not agreed to by the traders, and if you are touching on conditions of the consignment note, the ordinary company's risk consignment note, I should like to touch upon the existing conditions as laid down by the railway companies, and also to suggest that any alteration in future shall be agreed upon by both parties concerned, the railway companies and the traders, and any question of dispute in this connection should be submitted to the aforesaid Committees. I do not know whether it is suggested that, in addition to an owners' risk consignment note, a company's risk consignment note should be drawn up.

1374. There will have to be obviously both. If nobody suggests any change from the present we should not trouble about it?—With regard to the company's consignment note, we take objection to the clause which states that unless a claim is made within 14 days of the date of dispatch no liability for loss will be entertained. In many hundreds of instances, I was going to say thousands, the goods for a long time now have not been delivered within 14 days and it is almost impossible to make claims before we know whether the goods have been delivered.

Mr. Balfour Browne: There is a case upon that which is only reported in the *Railway and Shipping Journal* of 1st August, 1919, where the question was whether the 14 days was reasonable which is in the consignment note, and I believe it was decided that as it was in the consignment note it bound the Court.

Sir John Simon: That was an odd piece of law.

Mr. Balfour Browne: But we expect odd pieces of law from local trials.

Sir John Simon: May we have the name of the case which decided whether the case was reasonable under Section 7?

Mr. Balfour Browne: The action was brought by Mellist Richardson and Company, woollen manufacturers, of Workley, against the Great Northern Railway Company for breach of duty for non-delivery of goods carried by the railway company.

Chairman: What Court was it in?

Mr. Balfour Browne: The goods were lost and the railway company said they have not given notice within 14 days, and apparently the Court held under those circumstances we could not recover.

Chairman: What Court was that?

Sir John Simon: I have the information. It was Mr. Justice Rowlatt, who does not usually go wrong on an elementary point, and he decided on the evidence before him that it was a reasonable condition.

Chairman: Is there any question of time in the notice to companies in 1909?

Mr. Balfour Browne: It must have been at the Assizes at Leeds. My learned friend Mr. Mitchell Innes was the counsel. I do not know who the Judge was.

Mr. Bruce Thomas: It was an ordinary claim for loss in transit, and the claim was put forward, I think, some month or two after the consignment had been dispatched. The company set up the clause in the consignment note, "Where a claim is not made within 14 days from the date of delivery," that they would not be liable. The question arose as to whether that was a reasonable condition under Section 7 of the Act of 1854, and Mr. Justice Rowlatt held that it was a reasonable condition.

Mr. Balfour Browne: The Judge held 14 days was not unreasonable and therefore we did not recover.

Sir John Simon: That is quite a different thing.

1375. Mr. Balfour Browne: Now we are settling terms we can depart from 14 days whether it is

reasonable or not?—What we feel is that when in so many hundreds of cases the goods are not delivered in 14 days, how is it possible to make the claim in 14 days? Therefore we assert that that clause should be removed. It is not in the cases where claims are made several months afterwards. The railway companies in many instances claim the 14 days clause when the claim is made immediately. If it happens to be after 14 days, how can we claim? In Clause 8 we object to demurrage on trucks occurring during transit of the goods. It often happens, I understand, that sidings are flooded with trucks, and then the railway companies cannot deliver the trucks owing to the sidings being flooded and demurrage is occurring during transit of the goods.

1376. Chairman: You mean the private sidings or the sidings of the railway company?—The private sidings of the firm. The traders generally object to that demurrage being incurred during transit of the goods, but I think most of them would not demur to it if railway companies would admit liability for delay to owners' wagons.

Chairman: What is the law about owners' wagons? If the railway company is an utterly unreasonable time in sending it back, are they liable?

Sir John Simon: No, there is a provision in the Rates and Charges Order, Section 6, that where merchandise is conveyed in trucks not belonging to the company, the trader shall be entitled to recover from the company a reasonable sum by way of demurrage for any detention of his trucks beyond a reasonable period, and there has been as a matter of fact one instance in which that question arose. It was decided what the reasonable time was and the railway company had to pay demurrage.

1377. Chairman: Is not that so?—I am only advised on this evidence, it is not my own. It is the chambers. I am given to understand that the railway companies do not admit liability for delay to the owners' wagons, they do not pay up very readily. I daresay they would if taken to Court and a verdict was given.

1378. One verdict against a company helps other companies to pay?

1379. Mr. Jepson: I think you are probably referring to the notice issued by the railway companies during the War. They had to do it because the military were in charge of the railways. They had to issue a notice to say they would not be responsible for delays to rolling stock. It was purely a War measure?—I am only giving evidence on information. Perhaps some of the later witnesses will tell you. Clause 8. The company in this Clause claim a lien on the goods for money due. We do not think it is fair that the railway companies in a Clause should claim a lien on goods for any money due for something else. That seems to be a separate action for recovery. I remember well that the railway companies take very strong exception to a trader deducting an amount from his carriage account in settlement of a claim. However much you may consider you have a just cause for claiming and for recovering your claim by deducting from your carriage account, the railway companies will not admit that principle. If it is sound there I think it is sound here. They should not have a lien on my goods for money said to be due for something else. Their case is different. They should not take a lien on the goods for another transaction.

Chairman: What is the liability of the carrier?—A carrier has a general lien.

1380. Sir John Simon: I did not think in common law he had, not like an innkeeper. You cannot hold a passenger's luggage until he has paid his fare. I think that is right?—It seems to me the railway companies have inserted in the consignment note under Clause 9 the Clause they put in the ledger account agreement. If you open a monthly credit account, Mr. Jepson will agree. I think, they put this Clause in that they hold a lien on your goods for money due. Now it has been put into the consignment note. We object to that.

1381. Mr. Balfour Browne: I do not think the railway company has a general lien, but a particular

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lien for the charges upon the particular goods?—In Clause 12 the railway companies claim to be exempted from liability for any damage caused on goods through some defect in a wagon not their own property. If that was clearly defined, what that meant, it might be better understood. We do not understand whether it means if under the pooling system the Great Northern were carrying goods in a Great Eastern wagon, and some damage occurred through a defect in the Great Eastern wagon, they would not be liable. It is not clearly defined in the note. That is all I have to say about the conditions of the consignment note. In the next paragraph I have altered it. "I do not suggest that the decision of the aforesaid Committee or tribunal should be final on questions of law but only fact." We do urge that the tribunal if it is set up should be final in its decisions except on questions of law. "If appointed it would be able to deal with the greater part of the difficulties and disputes which at present arise without it being necessary to proceed further to the Railway and Canal Commission, if that Commission is to continue, or to the Courts on questions of law. If I might say so here, I would like to answer Mr. Acworth's point when he spoke to Mr. Musgrave in connection with the idea of preferring the Railway Commission Court to the ordinary Court of Law. I take it that our preference for the Railway Commission to the Court of Law is that its constitution provides for one Commercial Commissioner, and that we would prefer to have that business Commissioner on the Railway Commission.

1382. *Mr. Acworth*: Some think a business man is better at deciding a point of law than a lawyer?—No, but he would see the point of the business men quicker than the man of law. On a practical fact he would probably be able to see it quicker than the legal mind. That is my point really.

1383. I take it that is a general opinion. If you modified the tribunal of the country in that direction it would be an advantage?—In the past it has been the experience of a large proportion of the traders that they get no satisfaction or redress in the case of legitimate grievances except by litigation, which is expensive, and very often quite impossible to the small trader, and in the case of the large trader such expense is not justified, even if the action is successful, although considerable financial considerations and many precedents are at stake when taken collectively. In that connection I might give one small instance where I think the tribunal if set up would be very valuable. In my own business we had a case where our vans were detained for long periods at railway depôts. We considered we had a grievance, but the railway companies complained that their vans were detained on our premises, and there are other traders in a similar position of having unavoidably delayed a railway company's van. They send an invoice in for the cost of the detention, and although they claim the right to charge for the detention of their vans, they will not admit the same principle when they detain traders' vans. That is a matter you could go to the tribunal and settle one way or the other. Whether it is right or wrong I would not say. We traders consider we have as much right to claim on the railway company as they have on us, for the same class of vehicles acting as carters. I do not think I have any more to say unless you want to ask any question.

1384. *Sir John Simon*: You were stating your view as to whether, when it was thought necessary to change a rate in changing circumstances, the trader should be required to pay the rate after reasonable notice, even although proceedings to determine whether it should be finally confirmed had not yet been carried through. You remember the point?—Yes.

1385. You will appreciate, I am sure, if we are dealing with no traders except people of standing of the well-known probity of Peek Frean, possibly giving people credit for what they were going to pay might

be a safe proceeding, but I daresay you know there are a good many people who require railway companies to carry to whom the railway companies do not give credit?—I do.

1386. Everybody does not get a credit account. How do you propose the railway companies should deal with it. Can it be I have to give credit to somebody to whom I have never given credit, merely because on what I believe to be good grounds, it is proper to charge a higher rate than before?—On the understanding it is clearly laid down in the event of the tribunal deciding that the railway company are not justified, and the amounts are refunded, and the time is not too long, I think I should agree that you should charge immediately.

1387. I will agree with you it ought to be clear that if the railway company got payment into their hands which is not in the end upheld, of course they are accountable to the trader, whatever be the interval. Assuming the matter is challenged and upset, that is right. I should have thought, that is, speaking fairly as I wish to, and I know you do, that the business thing would be to hurry up the enquiry as much as one could, but as a general rule, not to leave the railway company without additional revenue when it is faced with certain expenditure.

Mr. Balfour Browne: I suggest if the trader paid the old rate, you should give credit for the increase.

Sir John Simon: With railway workmen, you pay him wages and give credit for the increase, but as a rule, he wants to be paid the increase on the nail. That is the trouble.

Chairman: And retrospective too.

Sir John Simon: Yes.

Mr. Davis: Many weeks sometimes.

1388. *Sir John Simon*: Very often. You have been so fair, I only want to get the fact out, as I follow a firm like yours has got an exceptional rate quoted to it and take advantage of it to a large extent?—Yes.

1389. Is not it the fact that the exceptional rate that is quoted to it is a rate quoted to you on these terms, that the company does not undertake to any loading at all?—No, it is an ordinary exceptional C. and D. rate.

1390. I think you will find, I am speaking subject to instructions, that on the face of the rate book in the case of the special rate you are speaking of, it is stated that the rate that is there recorded is a rate which does not cover loading?—I am not aware of it.

1391. Or unloading. You may say you ought to have a different rate, but I want to see what the facts are. Is not the position that Peek Freans have a rate which is stated on the face of the rate book not to include the service of loading or unloading? Therefore the railway company can stand by and leave your cart, or it may be a single man without an assistant to load, and anything the railway company can do in the way of helping to load your traffic it does not do, because it is not part of its contract, presumably, to get your stuff out of the way?—Not at all.

1392. Is not that the case?—No. If your point is correct, would not it be a fact they are not liable to sheet it?

1393. I do not know, I am only putting something I am told by our railway people they think is the case?—With all respect, they are quite wrong.

1394. It is always possible everybody may be wrong, but it was right to put it to you.

1395. *Mr. Abady*: On the question of the tribunal and your example of the detention of a van, would that claim be subject to an appeal?—An appeal by whom?

1396. By the unsuccessful party before the tribunal?—Certainly not.

(Adjourned to to-morrow morning at 11 o'clock.)

APPENDIX. (Prepared by Mr. H. Currington).

STATEMENT A.

ALLOCATION OF ROUTES.

Particulars of some cases where higher rates have been charged by the allocated route.

From	To	When allocated.		When not allocated.		Traffic.
		Route.	Charged per ton.	Route.	Charged per ton.	
Sheepbridge ...	Derby, G.N. ...	Midland ...	s. d. 5 1	Great Central	2 6	Pig Iron.
Staveley ...	Bradford, G.N. ...	Midland ...	12 2	Great Central	9 8	Iron Pipes.
Staveley ...	South Lambeth, G.N. ...	Midland ...	12 11	Great Central	10 5	Iron Pipes.
Staveley ...	Newark, G.N. ...	Midland ...	5 7	Great Central	4 9	Pig Iron.
Staveley ...	Newark, G.N. ...	Midland ...	6 11	Great Central	5 9	Sulphate of Ammonia.
Maltby ...	Leeds, Midland ...	Gt. Northern (Additional haulage charge of 1s. 8d. per ton made by Midland Co. at Leeds.)		Midland ...		Boiler.
Mid. & N.E. joint stations	Leeds, Midland ...	North Eastern (Additional haulage charge of 10d. per ton made by Midland Co. at Leeds.)		Midland ...		Tank Wagon Traffic.

STATEMENT A.—cont.

From	To	When allocated.		When not allocated—Route.	Traffic.
		Route.	Additional charge for special working.		
Wakefield ...	Birkenhead (L. & N.W.).	Lancashire & Yorkshire	£ s. 2 10	Gt. Northern or L. & N.W.R.	Fuel Economiser.
Wakefield ...	Kirkhill ...	Lancashire & Yorkshire & Caledonian.	35 0	Gt. Northern & Glasgow & South Western.	Do.
Wakefield ...	Trafford Park ...	Lancashire & Yorkshire.	9 15	Gt. Northern ...	Do.

STATEMENT B.

ALLOCATION OF ROUTES.

Particulars of some cases where extra cartage charges are incurred.

Traffic.	From	To	Allocated to	Formerly.	Remarks.
General ...	Many Provincial Towns.	London ...	Terminal station of Carrying Company.	Any main line London terminus.	Long additional road haulage in many cases.
Pig Iron ...	Staveley ...	Nottingham ...	Great Central ...	Midland to London station.	Extra cartage two miles.
Timber ...	Nottingham, G.C.	Sheepbridge ...	Great Central ...	Midland ...	Extra cartage, 4s. per ton.
Paper ...	Birmingham ...	Castleton, Rochdale and other Lancashire Towns. Derby.	London and North Western.	Midland ...	Longer cartage to L. & N.W. depot at Birmingham.

STATEMENT C.

Perishable Traffic—Birkenhead to Derby is allocated to the London & North Western route. Transit so poor by L. & N. W. route that the traffic has to be carted and ferried across to Liverpool and despatched from there by the Midland route at considerable additional cost.

Castings—Derby to Birmingham.—Allocated to London & North Western, the transit by which route is so poor that the firm concerned are sending by road upwards of 10 tons per week, at very considerable additional expense.

Castings—Derby to Barrow-in-Furness.—On May 15th the firm concerned tendered in turn to each of the railway companies at Derby a consignment for Barrow-in-Furness. Each company has declined to accept saying that Barrow-in-Furness is not on their list.

Scrap—Radford (Midland) to Sheepbridge.—Allocated to Great Central Company to be carried from Nottingham Great Central. Merchants decline to cart to Nottingham, and in consequence the scrap will not pass to Sheepbridge.

